

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 15.04.2021
CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.7011 of 2021 and
Crl.M.P.Nos.4676 & 4677 of 2021

M/s.Sri Vaari Fabrics,
Rep by its Proprietor
S.Selvan

... Petitioner/Accused

Versus

M/s.Vadivel Textiles
Rep.by its Proprietor,
P.Vadivel,
S/o.P.Palanisamy

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C.No.84 of 2020 on the file of Judicial Magistrate (Fast Track Level) of Thiruchengode, Namakkal District.

For Petitioners : Mr.C.Prakasam

ORDER

This Criminal Original petition has been filed to quash the proceedings in S.T.C.No.84 of 2020 on the file of Judicial Magistrate (Fast Track Level) of Thiruchengode, Namakkal District.

2. The case of the petitioner is that the petitioner and the respondent were doing textile business in the name of Sri Vaari Fabrics and M/s.Vadivel Textiles. Both are doing trading in the textiles. It was alleged by the respondent that in the course of business on 13.12.2019, the petitioner purchased materials worth about Rs.10,05,480/- from the respondent and for which, he issued a post dated cheque bearing No.000309 dated 19.12.2019 drawn on Lakshmi vilas Bank, Thokkavadi Branch. When the cheque was presented, it was returned as "Funds Insufficient". When the respondent asked the petitioner about the return of cheque, he was not received a proper reply. A legal notice was issued by the respondent on 13.01.2020 and thereafter, the respondent filed a private complaint in S.T.C.No.84 of 2020 before the learned Judicial magistrate (Fast Track Level), Thiruchengode against him and the petitioner/Accused was charged for the offences punishable under Section 138 of Negotiable Instrument Act. Aggrieved by the same, the petitioner filed this Criminal Original petition to quash the proceedings.

3. The learned counsel for the petitioner submitted that a false allegation has been made against him. When he was admitted in the Apollo Hospital, Chennai in the month of February, for taking treatment for blood cancer, the respondent took advantage of the situation and obtained signatures in various cheque leaves. After returning back from the hospital, the petitioner found that the cheques were misused and the claim made by the respondent is not a legally enforceable debt.

4. The learned Counsel appearing on behalf of the respondent submitted that the petitioner issued a cheque and cheated the respondent and hence, prays for dismissal of this Criminal original petition.

5. The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioner to raise all the grounds before the Court and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below. Considering the health condition of the petitioner, personal appearance of the petitioner before the lower Court is dispensed with. The petitioner to file affidavit that he shall not dispute identity, raise objections for recording evidence in absence and shall appear before the lower Court as and when called for on the dates when his presence is absolutely necessary.

6. Accordingly, this Criminal Original Petition is disposed of and the Court below is directed to complete the proceedings in S.T.C.No.84 of 2020, within a period of three months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial magistrate (Fast Track Level), Thiruchengode,
Namakkal District.

2.The Public Prosecutor,High Court, Madras.

CRL.O.P.No.7011 of 2021

BR (CO)
A.SK(23.06.2021)