

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P. No.7107of 2021
and
Crl.MP.Nos.4720 & 4721 of 2021

J.Udayakumar

... Petitioner

Versus

M.Suresh

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to C.C.No.3176 of 2019, pending on the file of the Learned Fast Track Court-II (Metropolitan Magistrate), Egmore, Chennai, and quash the same as against the petitioner.

For Petitioner : Mr. Ashok Menon

ORDER

The petitioner is the accused in a private complaint filed by the respondent herein under Section 138 of the Negotiable Instruments Act in CC.No.317 of 2019.

2.The primary contention of the petitioner is that the petitioner has approached the respondent during the month of January 2017 for a hand loan of Rs.8 Lakhs, which the petitioner collected from the residence of the respondent at, T.V.Nagar, Chennai. While receiving the hand loan, the petitioner said to have been executed a promisory note on 13.01.2017. According to the petitioner, the respondent repeatedly demanded the repayment of loan amount, while so, on 01.11.2018, the petitioner is said to have issued two post dated cheques indicating the date as 12.11.2018. According to the learned counsel for the petitioner the defacto complainant written a letter three months prior to the issue of legal notice dated 27.08.2018 wherein the defacto complainant stated that the petitioner had received only Rs.2 Lakhs. Further, in the letter, he had also stated that if the amount is not paid, the promisory note and two blank cheques will be made use of to initiate criminal proceedings against him. According to the counsel for the petitioner, this would show that the complaint in C.C. No. 3176 of 2019 is false and therefore he prayed for quashing the private complaint.

3. On perusal of the letter dated 27.08.2018 and the submissions made by the learned counsel for the petitioner, it is seen that the signature in the letter dated 27.08.2018 and the signature in the copy of the complaint is similar. But the respondent had projected the case on different facts, contrary to the letter dated 27.08.2018.

4. Therefore, this Court feels that there is force in the submissions of the learned counsel for the petitioner. However, these facts have to be proved by the petitioner only, during trial. Such a disputed facts cannot be decided by this Court in this quash petition. In view of the same, the petitioner is given at liberty to raise all these points in the trial in C.C. No. 3176 of 2019.

5. With the above observation, the Criminal Original petition is disposed of. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

klt

The Metropolitan Magistrate,
Fast Track Court-II,
Egmore, Chennai,

+1cc to Mr. Ashok Menon, Advocate SR.No.23892

CRL.O.P.No.7107 of 2021

and

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GMY (28/06/2021)