



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.22667 of 2018
and CrI.M.P.No.12584 of 2018

V. Subaa

.. Petitioner/Accused

Vs.

U. Velmurugan

..Respondent/ Complainant

Prayer: Petition filed under Section 482 of Cr.P.C., to call for the records relating to Criminal Case No. 131/2018, pending on the file of the Learned Judicial Magistrate - Fast Track, Mayiladuthurai and quash the same.

For Petitioner : Mr.R.Thanjan

O R D E R

The petitioner has filed this petition seeking to call for the records relating to Criminal Case No. 131/2018, pending on the file of the Learned Judicial Magistrate - Fast Track, Mayiladuthurai and quash the same.

2. The petitioner is accused and the respondent is complainant. The case of the respondent/complainant is that the petitioner/accused has borrowed a sum of Rs.2,00,000/- to meet out some urgent commitments. On 04.10.2016, the respondent paid a sum of Rs.2,00,000/- to petitioner and she has promised to repay the same within a period of eight months. When the respondent demanded the money, the accused has issued a post dated cheque bearing No.000040 dated 15.05.2017 for a sum of Rs.2,00,000/- drawn on HDFC Bank, Mount Road, Teynampet, Chennai to discharge her liability, as she has sufficient funds in the Bank and asked the complainant to deposit the said cheque issued by the accused and the same was returned with an endorsement as 'funds



insufficient''. Thereafter, on 21.06.2017, the respondent/complainant issued a statutory notice to the petitioner/accused and the same was refused by her. The said notice was returned to the respondent as 'unclaimed'. Therefore, the respondent filed a private complaint under Section 200 Cr.P.C. before the learned Judicial Magistrate-I, Mayiladuthurai for offence under Section 138 of Negotiable Instruments Act. After taking cognizance of the complaint and completing the legal formalities, in order to prove the case of the complainant, three witnesses were examined and four documents were marked before the trial Court.

3. To quash the said proceedings, the petitioner/accused has filed the present petition before this Court.

4. The learned counsel for the petitioner submitted that the respondent is a driver and he is working under one Kalaivnan, from whom he stolen all the documents, which includes alleged cheque owned by the petitioner, and the same was utilized by the respondent. When the said cheque was presented for encashment, it was returned with an endorsement as 'funds insufficient'. Therefore, there is no merits in this case and the learned counsel prays to quash the proceedings filed before the trial Court.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. The grounds raised by the counsel for the petitioner are all factual in nature, which require 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.

7. The learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioner



shall be present before the Court below at the time of framing of charges, questioning under Section 313 Cr.P.C. and at the time of passing of the final judgement.

WEB COPY

8. Accordingly, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in C.C.No. 131/2018, as expeditiously as possible. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rli

To

The Judicial Magistrate - Fast Track,
Mayiladuthurai

Cr1.O.P.No.22667 of 2018

SVI(CO)
SB(26/10/2021)