



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.10145 of 2019

G.V.Adimoolam

...Petitioner

Versus

C.Dayalan

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in STC No.461 of 2018 on the file of Judicial Magistrate, Fast Track Court - II, Erode and quash the same.

For Petitioner : Mr.U.Jugal Kumar

For Respondent : Mr. Ganesh
For Mr.N.Manokaran

O R D E R

This petition has been filed seeking for quashing the proceedings in STC No.461 of 2018 on the file of Judicial Magistrate, [Fast Track Court - II], Erode.

2. The respondent/complainant filed a private complaint under Section 200 of Cr.P.C., against the petitioner/accused for an alleged offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'NI Act') before the learned Judicial Magistrate [Fast Track Court - II], Erode.

3. The case of the respondent/complainant is that the petitioner/accused borrowed a sum of Rs.2,25,000/- from the respondent/complainant and the accused issued a cheque dated 17.08.2018 bearing cheque No.179288 drawn on IDBI Bank, Erode Branch, promising to repay the aforesaid amount on demand by the respondent. When the said cheque was presented for encashment by the respondent through his bankers viz., M/s.Dhanalaxmi Bank Limited, Veerappanchatram Branch, the same was dishonoured for



the reason "Payment Stopped by Drawer". Therefore, the respondent issued a legal notice dated 10.09.2018 to the petitioner. After receiving the said notice, the petitioner sent a reply notice dated 17.09.2018 which according to the respondent, contained false allegations. Therefore, he filed a private complaint under Section 200 of Cr.P.C. before the Court below.

4. The learned counsel for the petitioner submits that the cheque book of the petitioner was lost on 14.05.2018 in front of a Xerox Shop, on Kumarapalayam-Salem Main Road after taking xerox copy of the documents. Subsequently, the petitioner lodged a complaint before the Kumarapalayam Police Station on 16.05.2018 and he received a CSR.No.108/2018 on the same day. Thereafter, he received a legal notice from the respondent stating that he had borrowed a sum of Rs.2,25,000/- on 17.07.2018 from the respondent herein and one post dated cheque was issued by the petitioner/accused and the same was returned with an endorsement "Payment Stopped by Drawer". Therefore, the respondent initiated proceedings under Section 138 of the N.I. Act. He further submits that there is no relationship between the petitioner and respondent herein. Hence, he prayed to quash the said private complaint.

5.The learned counsel for the respondent would submit that on 16.05.2018, the petitioner has not given any complaint before the Kumarapalayam Police Station, which was given by one Vijayaraj stating that the cheque book of the petitioner was lost on 14.05.2018. Hence, he vehemently opposed to quash the proceedings.

6.Heard both sides.

7. On perusal of the records, it reveals that the petitioner has not given any complaint before the Kumarapalayam Police Station, which was given by some other person namely one Vijayaraj and CSR No.108 of 2018 was issued and the same was enclosed in Page No.11 of the typed set of papers. Further, in that complaint, he has not mentioned any other persons name. But, at the time of arguments, the learned counsel for the petitioner contended that after filing of this complaint only, the respondent fabricated one cheque and initiated the proceedings under Section 138 of the NI Act. It appears that the petitioner has also issued a reply notice to the respondent before initiating the proceedings under Section 138 of the NI Act. But, the petitioner has not taken any steps to intimate the police that the respondent is misusing his cheque leaf which was misplaced. Therefore, the petitioner/accused is directed to defend his case before the Trial Court. Hence, the reason stated by the petitioner at this stage is not justifiable one.



8. Since the case is pending before the Trial Court from the year 2018, this Court directs the Judicial Magistrate No.II, Erode to dispose of the case in STC.No.461 of 2018 within a period of six months from the date of receipt of a copy of this order.

9. Accordingly, this Criminal Original Petition is disposed of. Consequently, connected Crl.M.P.No.5250 of 2019 is also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

pbl

To

1. The Judicial Magistrate Fast Track Court II
Erode.
2. The Public Prosecutor,
Madras High Court,
Chennai.

+lcc to Mr.N.Manokaran, Advocate, S.R.No.61713

Crl.O.P.No.10145 of 2019

BR[co]

NSK 28/12/2021