



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.16415 of 2021 and
Crl.M.P.Nos.8944 & 8945 of 2021

R.Raghu

...Petitioner

Vs.

P.Vediappan

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C.No.184 of 2020 on the file of the learned Judicial Magistrate, Palakodu, Dharmapuri and quash the same against the above petitioner/accused.

For Petitioner : Mr.Ka.Raamakrishnan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.184 of 2020 on the file of the Judicial Magistrate Court, Palakode.

2.The gist of the case is that the petitioner was running an agency in the name of M/s.Travaca Travel Services. The petitioner approached the respondent and sought an amount of Rs.9,00,000/- for urgent needs. Believing the same, the respondent on 08.11.2017 deposited Rs.2,00,000/- in the account of the said agency and on 30.12.2017 deposited Rs.1,35,000/- and the balance amount of Rs.5,65,000/- has been handed over during the month of January 2018. On receipt of the total amount of Rs.9,00,000/-, the petitioner agreed to repay the amount within a period of three months. After three months, the petitioner did not repay the amount, despite making several request. On 23.09.2019, the petitioner paid Rs.5,000/- to the respondent and informed that he would repay the balance amount of Rs.8,95,000/- in three installments and also issued five signed cheques to the respondent. When the first three cheques were presented for encashment by the respondent in Indian Bank, Royapettah Branch, the same were returned as 'Funds Insufficient' on 05.10.2019. When the 4th & 5th cheques were presented for encashment in Tamil Nadu Grama Bank, Vellisandhai Branch, the same were also returned



as 'Funds Insufficient' on 22.10.2019 and 05.11.2019 respectively. Thereafter, the respondent sent a legal notice to the petitioner on 15.11.2019. Despite receiving the same, no reply was sent by the petitioner. Hence, the respondent lodged a complaint before the trial Court. The trial Court finding prima facie case in favour of the respondent, had taken the case on file as S.T.C.No.184 of 2020 and issued summons to the petitioner.

3.The primary contention of the petitioner is that the alleged cheques were crossed with an endorsement as Not Negotiable and in such circumstances, the cheques cannot be presented by the respondent as per Section 81 of the Bill of Exchanges Act. The learned counsel for the petitioner fairly submitted that the petitioner has not sent a reply to the statutory notice issued by the respondent.

4.The grounds raised by the learned 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 Cr.P.C. It is left open to the petitioner to raise all the grounds before the trial 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.

5.At this stage, the learned counsel for the petitioners seeks dispensed with of the petitioner before the trial Court and the petitioner may be permitted to appear before the trial Court as and when required.

6.On the plea of the learned counsel for the petitioner, it is made clear that the petitioner is to file a petition under Section 317 Cr.P.C., before the trial Court and also affidavit stating that he will not dispute his identity during the trial; cooperate with the trial; cross examine the witnesses then and there without seeking any unnecessary adjournments and he will not be a cause for delay of the trial. The trial Court is to consider the petition under Section 317 Cr.P.C., of 205 Cr.P.C., liberally. If the above undertaking is not followed by the petitioner during trial, the trial Court is directed to take coercive action against the petitioner.

7.In view of the above, this Court does not finds any merit in this Criminal Original Petition and the same is liable to be dismissed and, is dismissed.



8.It is made clear that the observation made herein is only for disposal of this petition. The trial Court to decide the case on its own merits. The connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vv2

To

The Judicial Magistrate,
Palakodu,
Dharmapuri.

Crl.O.P.No.16415 of 2021

AD[co]
NSK 09/11/2021