



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATISH KUMAR

Crl.O.P.Nos. 2552, 2553, 2554 and 2557 of 2017  
and  
Crl.M.P.Nos.1796, 1798, 1800 & 1805 of 2017

1.K.Rajkumar  
S/o. Muthuramalingam  
...Petitioner/Accused in all Crl.O.Ps

Versus

B.Venkat Rao  
S/o.Bhima Rao  
...Respondent/Complainant in all Crl.O.Ps

Prayer in Crl.O.P.No.2552 of 2017: Criminal Original Petition filed under Section 482 Cr.P.C to quash the further proceedings in C.C.No.640 of 2015 on the file of the Judicial Magistrate Court (fast Tract Court), Tiruppur.

Prayer in Crl.O.P.No.2553 of 2017: Criminal Original Petition filed under Section 482 Cr.P.C to quash the further proceedings in C.C.No.577 of 2015 on the file of the Judicial Magistrate Court (fast Tract Court), Tiruppur.

Prayer in Crl.O.P.No.2554 of 2017: Criminal Original Petition filed under Section 482 Cr.P.C to quash the further proceedings in C.C.No.576 of 2015 on the file of the Judicial Magistrate Court (fast Tract Court), Tiruppur.

Prayer in Crl.O.P.No.2557 of 2017: Criminal Original Petition filed under Section 482 Cr.P.C to quash the further proceedings in C.C.No.562 of 2015 on the file of the Judicial Magistrate Court (fast Tract Court), Tiruppur.

For Petitioner : Mr.K.Sridhar in all Crl.O.Ps

For Respondent : Mr.C.Veeraraghavan in all Crl.O.Ps

C O M M O N O R D E R

These Criminal Original Petitions have been filed to quash the proceedings initiated under Section 138 of Negotiable Instruments Act, 1881 against the petitioner/accused.



2. The prosecution case is that the accused has borrowed a loan of Rs.37 lakhs on 02.07.2013 by executing a promissory note and issued four cheques as security for the said loan and when the same was presented for encashment, the same was dishonoured and after sending a statutory notice, these complaints have been filed.

3. Heard the learned counsel for the petitioner.

4. The main contention of learned counsel for the petitioner is that there are number of sale agreements executed between the parties, suits are also pending and Power of Attorney has also been executed in respect of the immovable properties and further, there is no legally enforceable debt. His further contention is that the cheques have been presented after sale deed has been cancelled. Hence, it is his contention that the present complaint has been filed as a result of civil dispute.

5. At the outset, I am of the view that the disputed facts such as whether the cheque is supported by any consideration or not or whether it has been misused cannot be gone into while exercising jurisdiction under Section 482 Cr.PC. These are all matters of evidence and the same cannot be gone into at this stage. The special Rule of evidence relating to cheques i.e., presumption under the Negotiable Instruments Act will apply to the cheques. Therefore, it is for the accused to rebut the statutory presumption. In such view of the matter, it is for the petitioners to establish their case before the trial Court.

In such view of the matter, these Criminal Original Petitions are dismissed. However, the trial Court shall dispose of the cases within a period of six months from the date of receipt of a copy of this order. Personal appearance of the petitioner except for receiving copies and answering charges and questions, if any, is dispensed with. The petitioner shall file an application before trial Court under Section 436 Cr.P.C and execute a bond for Rs.10,000/- with two sureties each on such application trial Court shall release the accused on the same day. Thereafter, if he absconds, fresh FIR could be filed under Section 229A of IPC. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

gpa/gba



To

1. The Judicial Magistrate, (Fast Tract Court),  
Tiruppur.

2. -do- through The Chief Judicial Magistrate,  
Tiruppur.

3. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.K.Sridhar, Advocate SR. No.62381

CrI.O.P.No. 2552,2553, 2554 & 2557 of 2017  
and  
CrI.M.P.No.1796, 1798, 1800  
& 1805 of 2017

GPL (CO)  
PR (15/12/2021)