



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 27551 of 2017
and
Crl.M.P.Nos.15729 and 15730 of 2017

S.Ashok . . . Petitioner/2nd Accused

Versus

Axis Bank Limited.,
Rep. by its Deputy Vice President,
P.Karthikeyan,
Southern Recovery Cell,
No.192, 2nd Floor, Karumuthu Nilayam,
Anna Salai,
Chennai-600 002.

. . . Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the criminal proceedings in C.C.No.1906 of 2016, on the file of the Metropolitan Magistrate Court, Fast Track Court No.1, Allikulam Chennai.

For Petitioner : Mr.R.Saravanan

For Respondent : Mr.V.V.Sivakumar

ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings in C.C.No.1906 of 2016, on the file of the Metropolitan Magistrate Court, Fast Track Court No.1, Allikulam, Chennai, filed against the petitioner for the offence under Section 138 of the Negotiable Instruments Act.

2.The case of the complainant is that the accused approached the complainant in the year 2008 and availed financial assistance to a tune of Rs.5 Crores. In discharge of



the said debt, the accused issued a cheque drawn on ICICI Bank, for a sum of Rs.3,39,19,115/-, the above sum being the amount due as on 01.09.2016. When the same was presented for encashment, it was dishonored for insufficiency of funds. It is also the case of the complainant that, apart from the cheque, a Personal Guarantee Deed was also executed by the present petitioner/2nd accused, besides acknowledging the liability.

3.Though several grounds have been raised, the main contention of the learned counsel for the petitioner before this Court to quash the proceedings is that the petitioner has resigned from the company, therefore, he is not liable to be prosecuted and the prosecution is not maintainable.

4.At the outset, I am unable to countenance the submission of the learned counsel for the petitioner when the very cheque was issued by him and there was also a Personal Guarantee Deed executed by him. In such view of the matter, mere resigning from the Company at a later point of time will not absolve the petitioner from the liability. It is for the petitioner to establish all his defence before the trial Court.

5.Accordingly, this Criminal Original petition is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

6.The petitioner/accused is directed to appear before the trial Court within two weeks from the date of receipt of a copy of this order and file an application under Section 436 of Code of Criminal Procedure. On such filing of the application, the trial Court is directed to release the petitioner on bail on the same day on he executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties. If thereafter, he absconds, a fresh FIR can be registered under Section 229-A of the Indian Penal Code.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

psa/mkn



To

1. The Metropolitan Magistrate Court,
Fast Track Court No.1,
Allikulam Chennai.

2. The Chief Judicial Magistrate,
Egmore, Chennai.

+lcc to Mr.V.V.Sivakumar, Advocate, S.R.No.63371

Cr1. O.P. No. 27551 of 2017

GJ(CO)
SU(23/12/2021)