



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2021

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.5171 of 2021

and

Crl.M.P(MD)Nos.2975 and 2976 of 2021

R.Kumaresan

... Petitioner/Accused

Vs.

K.P.Mariyappan

rep by his power agent

K.Ponnusamy

... Respondent/Complainant

Prayer : Criminal Original Petition is filed is under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case in S.T.C.No.49 of 2019, on the file of the learned Judicial Magistrate, (Fast Track Court at Magistrate Level), Karur and quash the same as illegal.

For Petitioner

: Mr.R.Alagumani

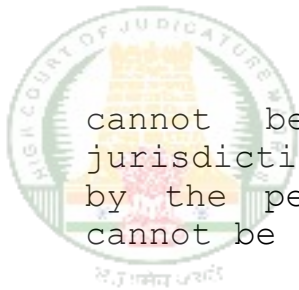
ORDER

The respondent filed a complaint in S.T.C.No.49 of 2019 before the learned Judicial Magistrate, (Fast Track Court at Magistrate Level), Karur on the following facts:-

The petitioner herein borrowed a sum of Rs.10,00,000/- from the respondent and also issued a cheque on 01.10.2016. It was presented for payment, which was dishonoured. Notice was issued and there was no reply and payment was also not made. So, a complaint under Sections 138 and 142 of Negotiable Instruments Act has been preferred.

2.Pending the trial, this petition has been filed mainly on the ground that the petitioner borrowed a sum of Rs.15,00,000 from one Murugesan on 21.08.2016 and as a security, issued 15 blank cheques drawn on Aringar Anna Nagar Branch, Indian Overseas Bank. The entire amount was paid, the said Murugesan promised to return the blank cheques to the petitioner. But, unfortunately, he had expired. So, the petitioner never issued any cheque to the complainant and he did not know him.

3.When the matter came up for hearing, this Court was of the considered view that the defence put forth by the petitioner



cannot be considered by this Court while exercising the jurisdiction under Section 482 of Cr.P.C. The defence put forth by the petitioner squarely involves of factual aspects, which cannot be decided by this Court.

4. When this view was expressed, the learned counsel for the petitioner would submit that the personal appearance of the petitioner may be dispensed with before the trial Court.

5. Since the petitioner is aged about 60 years, the personal appearance of the petitioner before the learned Judicial Magistrate, (Fast Track Court at Magistrate Level), Karur, in S.T.C.No.49 of 2019, is dispensed with on condition that he must appear before the trial Court within a period of fifteen days from the date of receipt of a copy of this order and filing an affidavit with his attested photo undertaking that he will appear before the concerned Court, as and when required.

6. Accordingly, the Criminal Original Petition is dismissed with a direction to the learned Judicial Magistrate, (Fast Track Court at Magistrate Level), Karur, to expedite the trial and complete the same at the earliest. Consequently, connected miscellaneous petitions in Crl.M.P.(MD)No.2975 of 2021 is closed and Crl.M.P.(MD)No.2976 of 2021 is ordered.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

sjj

Note In view of the present lock down : owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

The Judicial Magistrate,
(Fast Track Court at Magistrate Level),
Karur.

WEB COPY

+1 CC to M/s.R.ALAGUMANI, Advocate (SR-16037[F] dated
16/04/2021)

**Crl.O.P. (MD) No.5171 of 2021
09.04.2021**

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