



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.10203 of 2017

and

Crl.MP(MD)No.6970 of 2017

Prabhu : Petitioner

Vs.

Velmurugan : Respondent

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for records relating to the complaint of the respondent in C.C.No.215 of 2016 on the file of the learned District Munsif cum Judicial Magistrate, Aundipatty, Theni District and quash the same.

For Petitioner : Mr.C.Christopher

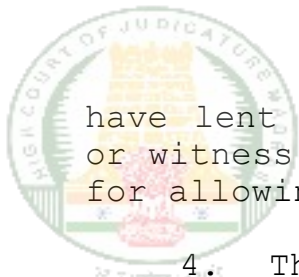
For Respondent : Mr.N.V.Nagendran,
Legal Aid Counsel

ORDER

This criminal original petition is filed by the petitioner / accused in C.C.No.215 of 2016 on the file of the District Munsif cum Judicial Magistrate, Aundipatty, Theni to quash the proceedings initiated as against him under Section 138 of the Negotiable Instruments Act.

2. The case of the respondent / complainant is that the petitioner has availed a loan of Rs.15,00,000/- from him on 15.08.2015 and in discharge of the said amount, the petitioner has issued a Cheque bearing no.629421, drawn on Lakshmi Vilas Bank, Theni, dated 15.09.2015. The respondent / complainant has presented the Cheque for collection on 16.09.2015, but, the Cheque was returned for the reason "kindly contact drawer bank please again". The respondent has issued a statutory notice on 15.10.2015 and thereafter, filed the above complaint.

3. Mr.C.Christopher, learned Counsel for the petitioner submitted that the Cheque in dispute is a loose leaf, which has been obtained from the Lakshmi Vilas Bank on 15.09.2015. The loose leaf cannot be drawn for more than Rs.50,000/-, whereas, it has been misused by the respondent, as if the petitioner has availed a loan for a sum of Rs.15,00,000/-. He further submitted that the statutory notice was issued on 15.10.2015 and the impugned complaint was filed on 20.11.2015, which is beyond the period of one month and therefore, the complaint is also hit by Section 142(b) of the Negotiable Instruments Act. That apart, the respondent is said to



have lent a sum of Rs.15,00,000/- without any document or security or witness and since, there is no legally enforceable debt, he prays for allowing this quash petition.

4. Though notice has been served on the respondent / complainant, there was no representation on his behalf. Therefore, this Court, by order dated 28.04.2021, appointed Advocate Mr.V.N.Nagendiran, as legal aid Counsel to defend the respondent / complainant.

5. Mr.V.N.Nagendrian, learned legal aid Counsel would submit that the trial has already commenced and PW1 was also examined in chief. He would further submit that the statutory notice dated 15.10.2015 was received by the petitioner and the petitioner sent a reply notice on 04.11.2015. Since the petitioner has not settled the amount and has sent a false reply, the respondent has lodged the private complaint. Therefore, he prays for dismissal.

6. Heard the learned Counsel appearing on either side.

7. Though several grounds have been raised by the petitioner, this Court is of the view that they are matter for trial. Whether the Cheque in question is a loose leaf, as claimed by the petitioner or otherwise; and whether the respondent is maintaining any accounts for the transaction can be ascertained only during the trial. Therefore, this original petition is **dismissed** with liberty to the petitioner to raise all the grounds before the trial Court. It appears that the proceedings is pending before the trial Court since 2016, in view of the pendency of this petition. Therefore, the trial Court is also directed to complete the trial and dispose of the same as expeditiously as possible, in any event, within a period of six months from the date of receipt of a copy of this order.

8. In view of the services rendered by Mr.N.V.Nagendran, learned legal aid Counsel, the legal aid authority attached to this Bench is to pay a sum of Rs.10,000/- to the learned legal aid Counsel.

9. In fine, this criminal original petition stands dismissed. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



The District Munsif cum Judicial Magistrate,
Aundipatty, Theni District.

Copy to
The Secretary to Legal Services Authority,
Madurai Bench of Madras High Court,
Madurai.

Cr1.OP(MD)No.10203 of 2017
21.06.2021

KM(02.07.2021) 3P 3C