



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.5970 OF 2020

AND

CRL.MP.NOS.3361 & 3363 OF 2020

K.Nepoleon

... Petitioner

.Vs.

John Rex

...Respondent/Complainant

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in STC.No.167 of 2020 on the file of the Judicial Magistrate No.1, Ariyalur District and quash the same as against the petitioner.

For Petitioner : Mr.V.Illanchezian

For Respondent : No appearance

ORDER

This petition has been filed to call for the records relating to the proceedings in STC.No.167 of 2020 on the file of the Judicial Magistrate No.1, Ariyalur District and quash the same as against the petitioner.

2. The petitioner is an accused in the complaint lodged by the respondent for the offences punishable under Sections 138 and 142 of the Negotiable Instrument Act.

3. The case of the complainant is that the petitioner and the respondent are doing real estate business and they are well known to each other as friends. The petitioner has received Rs.20,00,000/- and 15,00,000/- on 17.05.2019 and 30.06.2019 respectively for the development of Vaigai Educational Trust and promised to repay the amount within six months. The petitioner as in the capacity of Managing Trustee of the said Trust, has



issued a cheque bearing No.000177 dated 21.12.2019 drawn on Lakshmi Vilas Bank Ltd., Ariyalur Branch, for the sum of Rs.35,40,000/- in favour of the complainant. On submission of the same for collection, the said cheque was returned as unpaid with endorsement "Funds Insufficient" on the same day itself. Therefore, the complainant filed the above said complaint and it was taken on file by the learned Judicial Magistrate No.I, Ariyalur, in STC.No.167 of 2020.

4. The learned counsel for the petitioner would submit that the petitioner never issued any cheque to the respondent as alleged by the respondent for any illegally enforceable debt. Even before presenting the alleged cheque for collection on 21.12.2019, the petitioner lodged a complaint on 19.12.2019 alleging that the alleged cheques along with other cheques were stolen by the respondent herein. On the same day, the petitioner also issued legal notice to the respondent to recover the cheques which were stolen by him. On the complaint lodged by the petitioner, the Inspector of Police, District Crime Branch, Ariyalur, registered an FIR in Cr.No.3 of 2020 and also filed charge sheet for the offences punishable under Sections 406, 417, and 420 of IPC as against the respondent herein. Now, he is facing trial in C.C.No.91 of 2022 and the same has been taken cognizance in C.C.No.91 of 2022 on the file of the learned Judicial Magistrate No.1, Ariyalur.

5. On lodgement of complaint, the respondent presented the alleged cheque for collection. Further, it was returned with an endorsement "funds insufficient" on 21.12.2019. Thereafter, the respondent caused statutory notice and lodged the present complaint.

6. A perusal of records produced by the petitioner reveals that on 19.12.2019 itself, the petitioner lodged a complaint before the Inspector of Police, District Crime Branch, Ariyalur. After completion of investigation, the investigating Agency filed a final report and the respondent was charged for the offences punishable under Sections 406, 417 and 420 of IPC.

7. The specific charge is that only to extract money from the petitioner, the respondent has taken the cheques of the petitioner and presented the cheque bearing No.000177 for collection for a sum of Rs.35,40,000/- on 21.12.2019. On the strength of the return of cheque, the respondent is charged for the offences punishable under Sections 406, 417 and 420 of IPC and he is facing charges in C.C.No.91 of 2022 on the file of the Judicial Magistrate No.1, Ariyalur. That apart, the petitioner also caused legal notice to the respondent thereby called upon him to return the alleged cheque. Though the respondent caused reply notice, he failed to return the same and presented for



collection. Therefore, the entire proceedings initiated by the respondent, is nothing but a clear abuse of process of court and it cannot be sustained under law.

8. In view of the above, the proceedings initiated against the petitioner in STC.No.167 of 2020 on the file of the Judicial Magistrate No.1, Ariyalur District, is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gv

To

The Judicial Magistrate No.1,  
Ariyalur District.

+1cc to Mr.V.Illanchezian, Advocate, S.R.No.34763

CRL.O.P.NO. 5970 OF 2020 AND  
CRL.MP.NOS.3361 & 3363 OF 2020

PMK (CO)  
PBS/28/06/2022