



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.6485 OF 2020

AND

CRL.MP.NO.3581 OF 2020

K.Velladurai

... Petitioner

Vs.

Sujatha

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records connected in CC.No.9885 of 2018 on the file of the Metropolitan Magistrate, Fast Track-III, Saidapet and quash the same.

For Petitioner : No appearance

For Respondent : Mr.V.K.Sathyamoorthy

ORDER

This Criminal Original Petition has been filed to quash the proceedings in CC.No.9885 of 2018 on the file of the learned Metropolitan Magistrate, Fast Track-III, Saidapet thereby taken cognizance for the offence under Section 138 of Negotiable Instruments Act as against the petitioner.

2. The petitioner is the accused in the complaint lodged by the respondent for the offence punishable under Section 138 of NI Act. The respondent lodged the complaint alleging that the petitioner was the complainant's regular customer purchasing imported Streaming Coal products on credit basis in the name of M/s.Aditya Marketing and Vetri Marketing and made payments accordingly and gained the complainant's confidence. While being so, during the year 2016, the petitioner purchased Imported Streaming Coal products on various dates and



agreed to pay interest at the rate of 24% for delayed payments. In fact, after settling the goods, the respondent issued notice for non payment of balance due amount. In order to repay the balance amount, the petitioner issued cheque dated 21.06.2018 for a sum of Rs.30 lakhs . The said cheque was presented for collection and the same was returned 'dishonoured' for the reason "funds insufficient". After causing statutory notice, the respondent lodged complaint for the offence under Section 138 of NI Act.

3. The learned counsel who appeared earlier before this Court on behalf of the petitioner, submitted that already after filing quash petition, they handed over the entire bundle to another counsel on behalf of the petitioner. Even then, no change of vakalat has been filed so far.

4. The learned counsel for the respondent would submit that already trial was commenced and PW1 was examined in chief. After closing the evidence of PW1, the petitioner filed petition under Section 311 of Cr.P.C. to recall P.W.1, which was allowed and even then, the petitioner failed to cross examine P.W.1 after giving sufficient opportunities to the petitioner. Thereafter, the complainant side evidence was closed and posted the complaint for questioning under Section 313 of Cr.P.C. At that juncture, the petitioner has filed this petition to quash the proceedings only on the ground that the petitioner never issued the alleged cheque for any legally enforceable debt. On receipt of the legal notice, the petitioner issued reply notice dated 17.07.2018 stating that the said cheque was never issued to the respondent for any legally enforceable debt. In fact, the petitioner's staff one, Maria Antony Franklin, when he was working under the petitioner, had stolen some unfilled signed cheques from the petitioner and colluded with the respondent and filed the complaint under Section 138 of NI Act.

5. Heard, Mr.V.K.Sathyamoorthy, the learned counsel for the respondent.

6. Though the petitioner stated in the legal notice that the alleged cheque was already stolen, the petitioner did not lodge any complaint before the authority concerned. Only after receipt of the notice in the Section 138 of NI Act proceedings, the petitioner lodged complaint which is nothing but afterthought and only to escape from the clutches of law, the petitioner lodged complaint. Therefore, there is absolutely no grounds to quash the entire proceedings since all the grounds raised by the petitioner are mixed question of fact and it has to be gone into by due trial.



7. In view of the above, this court is not inclined to quash the proceedings in CC.No.9885 of 2018 on the file of the Metropolitan Magistrate, Fast Track-III, Saidapet. Accordingly, this criminal original petition is dismissed. However, the trial court is directed to complete the trial in CC.No.9885 of 2018 within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

lok

To

The Metropolitan Magistrate,
Fast Track-III, Saidapet.

+2ccs to M/s.C.Rajan, Advocate, S.R.No.34359

CRL.O.P.No.6485 of 2020
and CrI.MP.No.3581 of 2020

RSV(CO)
RLP(30/06/2022)