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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 15/6/2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. Nos.7857 and 7869 of 2022

a n d

Crl.M.P.Nos.7529, 7533, 4560 and 4570 of 2022

R. Muralidharan ...Petitioner in both the Crl.O.Ps.

Vs

Anthony Divya Kumar
rep. By his Power of Attorney/Agent
Mr.Claudius Neil Pinto

... Respondent in both the Crl.O.Ps

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to quash the S.T.C.Nos.14 and 15 of 2022 pending before the Fast Track Court, Magisterial Level, Thiruvallur.

For petitioner : Mr.M.Jaikumar

For respondent : Mr.Ramesh Kumar G.Chopda

C O M M O N O R D E R

These Criminal Original Petitions have been filed to quash S.T.C.Nos.14 and 15 of 2022 pending before the Fast Track Court, Magisterial Level, Thiruvallur.

2. The case of the prosecution is that when the petitioner/accused was working at Hyundai Mobis, Chennai, intended to start a new business venture and sought for investment and received money from the respondent/complainant. The respondent invested Rs.85 lakhs in petitioner's business venture and in return, he was promised and assured a profit of Rs.5,00,00,000/-. The accused issued the subject cheques, and when the same was presented for encashment through the complainant banker, the same was dishonoured as "Payment



Stopped by Drawer". After issuing the statutory notice, the complaint has been preferred which was taken on file by the learned Fast Track Court, Magisterial Level in S.T.C.Nos.14 and 15 of 2022.

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3. Heard Mr.M.Jaikumar, learned counsel appearing for the petitioner and Mr.Ramesh Kumar G.Chopda, learned counsel for the respondent.

4. The learned counsel appearing for the petitioner submitted that the subject cheques were stolen and forcibly obtained by the complainant in respect of which F.I.R has been filed. Therefore, submitted that these complaints are nothing but an abuse of process of law and hence the same sought to be quashed.

5. At the outset, Court is unable to persuade itself by the contention putforth by the petitioner. Having gone through the materials available on record, this Court is of the considered view that when a complaint is filed under Section 138 of the Negotiable Instruments Act, this Court cannot go into the question of fact as to the validity of the issuance of cheque and whether the cheque has been issued towards a legally enforceable debt or not. Those issues are factual and triable issues, which have to be decided only by way of a full fledged trial and not otherwise under Section 482 of Code of Criminal Procedure.

6. In STATE OF HARYANA AND OTHERS Vs. BHAJANLAL AND OTHERS 1992 Supp (1) Supreme Court Cases 335, wherein the Hon'ble Supreme Court has held that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection.

7. In such a view of the matter, all the contentions raised by the learned counsel is a factual matter which require appreciation of evidence. Accordingly, the same cannot be gone into at this stage.

8. In the result, these Criminal Original Petitions are dismissed. Petitioner is at liberty to raise all his defence before the trial Court in the manner known to law. The 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, trial Court is directed to release the petitioner on bail on the same day on 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. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Fast Track Court,
Magisterial Level, Thiruvallur.
2. The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.M.Jaikumar, Advocate, S.R.Nos.35862,35863

Crl. O.P. Nos. 7857 and 7869 of 2022

AD (CO)
UMA (06/07/2022)