



Crl.O.P.No.14893 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.14893 of 2020
and Crl.M.P.Nos.5670 & 5671 of 2020

Selvakumar

...Petitioner

-Vs-

S.Santha Kumar

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in criminal complaint S.T.C.No.666 of 2018 on the file learned District Munsif cum Judicial Magistrate, Sriperumpudur and quash the same.

For Petitioner : Ms.S.Revathy
For Mr.V.Kannan

For Respondent : No appearance

ORDER

This petition has been filed to quash the proceedings in S.T.C.No.666 of 2018 on the file learned District Munsif cum Judicial Magistrate, Sriperumpudur, thereby taken cognizance of the complaint lodged by the respondent under Section 200 of Cr.P.C., & Sections 138, 142 of the Negotiable Instruments Act.



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2. The petitioner is the accused in the complaint lodged by the respondent for the offences under Sections 138 & 142 of the Negotiable Instruments Act. The respondent filed complaint alleging that the petitioner borrowed a sum of Rs.4,00,000/- on 20.01.2018 for development of his business. In order to repay the same, the petitioner issued cheque for a sum of Rs.4,00,000/- and it was returned dishonoured for the reason that the funds insufficient. After causing statutory notice, the respondent lodged the present complaint.

3. The learned counsel appearing for the petitioner raised ground that the respondent ought to have intimated and confirmed with the petitioner before presenting the cheque for collection. Without informing the petitioner, the respondent presented the cheque for collection. Further, there is no enforceable debt by the petitioner to the respondent as alleged by him. The respondent failed to produce any record to establish the liability of the petitioner to pay a sum of Rs.4,00,000/- viz., the cheque amount. The respondent also failed to produce any document to prove the source of income to prove the means of the respondent. Hence he prayed to quash the entire proceedings.



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4. Heard Ms.S.Revathy, learned counsel appearing for the petitioner. No one is appeared on behalf of the respondent.

5. On perusal of the reply notice dated 28.07.2018, sent by the petitioner, he categorically admitted the borrowal of the amount from the respondent on two occasions. Further, he called upon the respondent to return the cheque, since it was presented for collection with ulterior motive to collect money illegally. Therefore, the petitioner ought to have cross-examined the respondent before the trial Court to rebut the respondent herein. Further all the grounds raised by the learned counsel appearing for the petitioner, are mixed question of fact and it can be considered only by the trial Court during trial.

6. In view of the above discussions, this Court is not inclined to quash the present proceedings. However, the trial Court viz., the learned District Munsif cum Judicial Magistrate, Sriperumpudur, is directed to complete the trial in S.T.C.No.666 of 2018, within a period of six months from the date of receipt of a copy of this Order.



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7. In the result, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts



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WEB COPY

To

1.The District Munsif cum
Judicial Magistrate,
Sriperumpudur.



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G.K.ILANTHIRAIYAN. J.

rts

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