



Crl.O.P.No.20209 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.20209 of 2022 &
Crl.M.P.No.13289 of 2022

K. Duraisamy ... Petitioner

/vs/

K. Nagaraj ... Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. challenging the order dated 06.07.2022 made in Crl.M.P.No.905 of 2021 in C.C.No.87/2019 on the file of the learned Judicial Magistrate, Fast Track Court No.1 @ Magistrate Level, Coimbatore.

For Petitioner ... Mr. P.M.Duraiswamy

For Respondents ... Mr.P.Saravana Sowmian

ORDER

This Criminal Original Petition has been filed challenging the order dated 06.07.2022 made in Crl.M.P.No.905 of 2021 in C.C.No.87/2019 on



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the file of the learned Judicial Magistrate, Fast Track Court No.1 @
Magistrate Level, Coimbatore.

2. The learned counsel for the petitioner submitted that the petitioner is facing trial in C.C.No.87 of 2019 on the file of learned Judicial Magistrate, Fast Track Court No.1, Magistrate Level, Coimbatore based on the private complaint lodged by the respondent herein under section 138 of Negotiable Instruments Act alleging that the petitioner has issued a cheque on 14.5.2018 for a sum of Rs.20,00,000/- to discharge the loan amount of Rs.17,00,000/- borrowed from the respondent on execution of promissory note dated 20.5.2016 along with interest at the rate of 18% per annum and when the said cheque was presented for encashment, the same was dishonoured on account of 'Account Closed' on 22.5.2018.

3. He would further submit that pending calender case, the respondent herein has filed a Crl.M.P.No.905 of 2021 seeking to amend the date of execution of promissory note mentioned in the complaint and list of documents, since the date of promissory note was mistakenly



mentioned as 20.5.2016 instead of 20.09.2016. The learned Judicial Magistrate allowed the said amendment petition by opining that the defect highlighted was only a typographical error. He would further submit that if this amendment seeking change of date in promissory note in the complaint is permitted, it would affect the defense to be taken by him as his specific defense is that he did not borrow any amount from the respondent and did not give any promissory note on the date specified and though there were many money transactions between the petitioner and respondent, the same were completed and closed. Therefore he prayed to set aside the order passed by the learned Judicial Magistrate allowing amendment in the date of promissory note in the complaint.

4. The learned counsel appearing for the respondent/ complainant justifying the order passed by the trial court pleaded that he may be permitted to amend the date of execution of promissory note in the complaint since it is only a typographical error. Thus he prayed for dismissal of this petition.



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5. Heard both sides and perused the materials available on record.

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6.The fact reveals that the petitioner is an accused and the respondent is the complainant in C.C.No.87 of 2019 on the file of Judicial Magistrate, Fast Track Court No.1, Coimbatore. The complainant prosecuted the petitioner for dishonouring of the cheque dated 14.5.2018 for the amount of Rs.20,00,000/- and also pleaded in the complaint that the accused borrowed a sum of Rs.17 lakhs and executed a promissory note and in order to discharge that amount, he had issued a cheque dated 14.5.2018 and the same was dishonoured. Now seeking to amend the date of execution of promissory note in complaint, as it was typographical error inadvertently typed by the Advocate as 20.5.2016 instead of 20.09.2016, the respondent filed Crl.M.P.No.105 of 2021 before the Judicial Magistrate to amend the date of promissory note in the complaint and the same was allowed by the trial court. It is seen that the trial court, for proper adjudication and in order to arrive at a right conclusion, after perusing the relevant records, permitted to amend the date of execution of promissory note in the complaint which was factually a typographical



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error. In view of the above, I do not find any infirmity or irregularity in the order passed by the trial court. Hence, this Criminal Original Petition is dismissed. It is open to the petitioner to raise all the defences raised herein with regard to the amendment of the date of promissory note in the complaint before the trial court.

7. With the above observation, this Criminal Original Petition stands disposed of. Consequently, the connected miscellaneous petition is closed.

12.10.2022

msr
index; yes/no
internet;yes/no

V.SIVAGNANAM,J.



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