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Crl.OP.No.22157 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2022

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.22157 of 2022

and

Crl.MP.No.14275 and 14277 of 2022

S.Senthil

... Petitioner

Vs

Jainalavuddin

... Respondent

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records in STC.No.445 of 2022, pending trial on the file of the Judicial Magistrate-I, Ariyalur and quash the entire proceedings as against the petitioner/accused.

For Petitioner : Mr.M.Velmurugan

ORDER

This petition has been filed to quash the proceedings in STC.No.445 of 2022 on the file of the learned Judicial Magistrate-I, Ariyalur, thereby taken cognizance for the offences under Sections 138 r/w142 of Negotiable Instruments Act, as against this petitioner.



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2. The case of the respondent is that the petitioner/accused has borrowed a sum of Rs.20,00,000/- as hand loan in the month of December 2021 for his urgent family debt and promised to repay the same within a period of three months. As a repayment of the said amount, the petitioner/accused has issued a cheque to the respondent for a sum of Rs.10,00,000/- on 18.03.2022 bearing Cheque No.114861 and another cheques for a sum of Rs.10,00,000/- on the same same day bearing Cheque.No.114863 drawn on State Bank of India, Ariyalur. Later, the respondent has presented the above cheques for collection on 22.03.2022 through his account in City Union Bank, Ariyalur Branch and the same was returned from the petitioner's bank on 23.03.2022 with an endorsement “ Funds Insufficient”. The action on the part of the accused/petitioner in issuing the cheques without having sufficient funds with his banker, amounts to an offence under Section 138 of Negotiable Instruments Act.

3. The learned Counsel appearing for the petitioner would submit that there are two cheques bearing cheque.Nos.114862 and 114861 and for dishonour of both cheques, the respondent caused notice on



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28.03.2022 and the same was duly received by the petitioner. However, the respondent failed to issue any notice in-respect-of Cheque No.114861 and the acknowledgment which was received in respect of another cheque has been used to lodge the present complaint. There was no notice in respect of the cheque bearing No. 114861. Therefore, there is no cause of action to lodge a complaint.

4. Taking into consideration the facts and the submissions made by the learned counsel for the petitioner that the grounds raised by the petitioner that the acknowledgment and other documents produced before this Court cannot be tested here under the quash petition filed under Section 482 of Cr.P.C and the grounds raised by the petitioner and misrepresentation of facts and all the documents produced before this Court have to be tested before the trial court below. That apart, on perusal of records, it reveals that the petitioner duly received statutory notice under 138 of Negotiable Instruments Act by the acknowledgment dated 18.04.2022. Therefore, this Court finds no ground to quash the case.

5. In view of the above discussion, this Court is not inclined to



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quash the proceedings in STC.No.445 of 2022 on the file of the learned Judicial Magistrate-I, Ariyalur. However, the petitioner is at liberty to raise all the grounds before the trial Court.

6. Accordingly, this criminal original petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

15.09.2022

Internet:Yes
Index:Yes/no
Vv

To

1. The Judicial Magistrate-I,
Ariyalur.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.

Vv

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