



CrI.O.P.No.24592 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CrI.O.P.No.24592 of 2022

Chandra

... Petitioner

Vs

Balasubramaniam
Respondent

...

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.81 of 2022 on the file of (Fast Track Court) Judicial Magistrate, Thiruvannamalai and quash the same as illegal, incompetent and without jurisdiction and abuse of process of law.

For Petitioner : Mr.V.Raghavachari

ORDER

This criminal original petition has been filed to call for the records in C.C.No.81 of 2022 on the file of the Fast Track Court Judicial Magistrate,



Tiruvannamalai and quash the same.

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2. The learned counsel for the petitioner submitted that the petitioner is the mother-in-law and the respondent is the daughter-in-law's father. The respondent had filed a complaint against the petitioner for dishonour of cheques. The cheques were given based on the memorandum of understanding entered into between the son of the petitioner and daughter of the respondent on 14.03.2022 with regard to the broke down of marriage. In the Memorandum of Understanding, both the son and daughter of the respective parties agreed and then the son of the petitioner agreed to return Rs.37 lakhs as well as the jewels. It was agreed to pay by installments but a condition has been stipulated in the memorandum of understanding that cheques have to be honoured only on signing of the mutual consent divorce petition. Without signing the consent divorce petition, the cheques have been presented for collection and dishonoured and hence no offence is made out under Section 138 of Negotiable Instruments Act. There is no liability for paying the amount. Therefore the criminal proceedings needs to be quashed.

3. Heard the learned counsel for the petitioner and perused the materials



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available on record.

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4. On perusal of the records, the fact reveals that the petitioner is an accused in C.C.No.81 of 2022 on the file of the learned Judicial Magistrate (Fast Track Court), Thiruvannamalai. The respondent is the daughter-in-law's father. Their son and daughter viz., Rajkannan and Sindhuja got married on 16.11.2020. After marriage, there was some dispute between the husband and wife. Therefore, wife filed a complaint against the husband in DVC.No.10 of 2021 before the District Munsif cum Judicial Magistrate Court, Thandarampattu, Thiruvannamalai district and STC.No.773 of 2021. On reading of the memorandum of understanding dated 14.03.2022, the husband agreed to repay the amount of Rs.37 lakhs given to the husband by the wife side at the time of marriage as marriage Sridhana and that the wife had withdrawn the DVC.No.10 of 2021. When she presented the cheque given by the petitioner maintained in his account, it was returned as “Funds insufficient”. Hence filed a petition.

5. Now the learned counsel for the petitioner disputes the fact that the amount of Rs.37 lakhs was not given as Sridhana by the wife side during



marriage, it was arrived as a compensation between the parties, while arriving compromise agreed to pay by instalments on the condition that the wife has to sign consent divorce petition, without signing the consent divorce petition they are not entitled to get money and not entitled to dishonour the cheques. Under these circumstances, the learned counsel for the petitioner pleaded to quash the criminal proceedings against the petitioner. The factual dispute arise is that whether Rs.37 lakhs as stated in paragraph No.5 of the memorandum of understanding was given by the wife side at the time of marriage as seedhana or as a compensation to settle the marriage dispute between the parties even during the compromise then factual dispute has to be adjudicated before the trial Court by letting evidence while exercising its jurisdiction under Section 482 of Cr.P.C. Any factual dispute cannot be adjudicated therefore trial has to be commenced and the dispute has to be adjudicated by letting evidence. Therefore it is inappropriate to quash the criminal proceedings before the commencement of the criminal proceedings. and it does not meet the parameters laid down by the Supreme Court in ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604), M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315) & PRATIBHA***



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RANI Vs.SURAJ KUMAR & ANR (1985 CrI.L.J.817), and therefore, the

matter has to be investigated to find out the truth. In view of the above, it is inappropriate to quash the proceedings in C.C.No.81 of 2022 on the file of Fast Track Court Judicial Magistrate, Tiruvannamalai. Hence, I find no merit in this petition and the same is liable to be dismissed. Accordingly the criminal original petition stands dismissed.

6. At this stage, the learned counsel for the petitioner sought indulgence of the Court, to dispense with the personal appearance of the petitioner.

7. In view of the submissions of the learned counsel for the petitioner, the personal appearance of the petitioner is dispensed with except for receiving copies, for answering the charges, for questioning under section 313 Cr.P.C. and any other dates fixed by the trial Court. Consequently, connected miscellaneous petition is also closed.

11.10.2022

Intranet: Yes/No
Speaking/Non speaking order

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To

1. The learned (Fast Track Court)
Judicial Magistrate,
Thiruvannamalai
2. The Public Prosecutor,
High Court of Madras.
3. The Public Prosecutor,
High Court of Madras.



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V. SIVAGNANAM, J.

dpq

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