



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.[MD].No.5216 of 2020

and

CRL.M.P.[MD]Nos.3017 and 3018 of 2020

Arunkumar

... Petitioner/Sole Accused

Vs.

1. State rep. by
The Inspector of Police,
M.Reddiyapatti Police Station,
Virudhunagar District.

... 1st Respondent/Complainant

2. S.Ilango

... 2nd Respondent/Defacto
Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in C.C.No.39 of 2018 on the file of the learned Judicial Magistrate No.I, Virudhunagar and quash the proceedings as against the petitioner.

For Petitioner : Mr.L.Prabhu

For R1 : Mr.S.Manikandan,
Government Advocate.

For R2 : No Appearance

ORDER

This Criminal Original Petition is filed to quash the private complaint filed by the defacto complainant against the petitioner.

2.The crux of the allegation in the complaint is that towards the debt of a sum of Rs.2,00,000/-, a cheque was issued by the petitioner to the defacto complainant dated 31.10.2017. When the same was presented for encashment, it was dishonored for the reasons of 'Account closed'. After issuing statutory notice, the private complaint is filed. The same is sought to be quashed mainly on the ground that the cheque amount has already been paid to the defacto complainant by way of bank transfer on 13.10.2017. Therefore, it is the contention of the learned counsel for the

petitioner that there is no legally enforceable debt, as the amount has already been paid. Therefore, there cannot be any prosecution against the petitioner.

3.To buttress the submission, he has also relied upon the bank statements of the petitioner. Though the statements have reflected the transfer of a sum of Rs.1,90,000/- on 13.10.2017, this Court is of the view that it is the matter of evidence and the fact that the transfer of money is in respect of the cheque amount has to be established before the trial Court.

4.In such view of the matter, since the bank details are to be proved in the manner known to law, merely on the basis of the statements produced before this Court, without proving all such statements, the Court cannot assume the role of the trial Court. However, liberty is granted to the petitioner to establish the transfer of money towards the cheque amount.

5.With this liberty, this Criminal Original Petition is disposed of and personal appearance of the petitioner is dispensed with before the trial Court, except for answering the charges, receiving copies, questioning under Section 313 of Cr.P.C., or any other date to be fixed by the trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr
To

1. The Judicial Magistrate No.I, Virudhunagar.
 2. The Inspector of Police,
M.Reddiyapatti Police Station,
Virudhunagar District.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 CC to M/s.L. PRABHU, Advocate (SR-19957[F] dated 21/04/2022)

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