



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.1207 of 2019

and

Crl.MP(MD)No.573 of 2019

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Bairvan : Petitioner/Accused

Vs.

Duraipandi : Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.79 of 2018 on the file of the Judicial Magistrate No.1, Virudhunagar and quash the same.

For Petitioner : Mr.S.Sukumar
For Respondent : Mr.M.Musthafakhan

O R D E R

This criminal original petition has been filed by the petitioner seeking quashment of CC No.79 of 2018 on the file of the Judicial Magistrate No.1, Virudhunagar.

2.The case of the prosecution in brief:-

The petitioner and the respondent are friends. In the month of March 2018, the petitioner approached the respondent for hand loan amount of Rs.1,25,000/- and received the same and also promised to repay the same within a month. But the petitioner failed to repay the amount. Towards discharge of the above said loan amount, the petitioner alleged to have issued a cheque bearing No.121446, dated 06/06/2018 to the respondent. On presentation of the cheque, it was returned stating that funds insufficient. So legal notice was issued to the petitioner and after completing the formalities, he filed a private complaint before the Judicial Magistrate No.1, Virudhunagar, which was taken cognizance in CC No.79 of 2018 for the offence under section 138 r/w 142 of the Negotiable Instruments Act.

3. Seeking quashment of the same, the petitioner has filed this petition mainly on the ground that both were working as teachers. The petitioner obtained loan of Rs.20,000/- from the respondent in the month of March 2018 and that was also repaid. But this false complaint has been given by the respondent.



4.Heard both sides.

5.The offence alleged is under Section 138 of the Negotiable Instruments Act. The complaint reads that in the month of March 2018, this petitioner alleged to have received Rs.1,25,000/- as hand loan. Towards discharge of the above said loan amount only, the disputed cheque has been issued. Now the petitioner does not deny the signature in the cheque as well as the fact that there was money transaction between them. So what is denied by this petitioner is that the liability was also discharged on the date of presentation of the cheque and when filing of the complaint, there was no liability. Whether the alleged hand loan of Rs.20,000/- was repaid or not is a matter for consideration only during the course of trial.

6.The petitioner has relied upon the Certificate issued by the Headmaster of the Government Higher Secondary School, Perungalur, Pudukottai, wherein we find that on 01/03/2018 to 30/04/2018, the petitioner was attending the paper valuation work. So according to him, the occurrence said to have been taken place in the month of March 2018 would not have been taken place at all, since he is attending the duty of paper valuation work. But that sort of contention cannot be taken into account, while exercising the jurisdiction under section 482 Cr.P.C.

7.As mentioned above, it is a matter for trial. When the disputed cheque is not denied, then automatically the petitioner has to face the trial process and advance his defence only in the course of trial. So absolutely, I find no merit in this petition.

8.In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2022

Sub Assistant Registrar(CS)

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To,

The Judicial Magistrate No.1,
Virudhunagar.

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Crl.O.P. (MD)No.1207 of 2019
18/03/2022

NSN (CO)
KB (04.05.2022) 3P 2C