



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:19/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.5256 of 2019

and

Crl.MP(MD)Nos.3304 and 3305 of 2019

M.Sheik Dawood

: Petitioner/Accused

Vs.

K.Selvaraj

: Respondent/Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in CC No.657 of 2018 on the file of the Fast Track Court (Magisterial Level), Karur and quash the same.

For Petitioner : Mr.K.Vinayagan

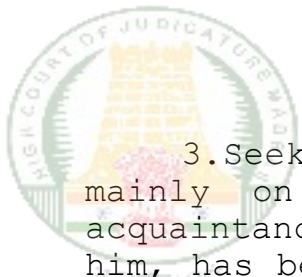
For Respondent : Mr.E.K.Kumaresan

O R D E R

The petition has been filed seeking quashment of the case in CC No.657 of 2018 on the file of the Fast Track Court (Magisterial Level), Karur.

2.The case of the prosecution in brief:-

The accused is the petitioner herein, has borrowed a sum of Rs.9,50,000/- from the respondent/complainant for his urgent family expenses. On 18/07/2016, he executed a promissory note agreeing to repay the amount with interest. Towards discharge of the above said liability, he issued a post-dated cheque, dated 25/07/2018 in the 3rd week of July 2018 in favour of the complainant drawn on ICIC Bank, Singampunari branch. That was presented for payment, on 25/07/2018. But it came returned dishonoured stating that 'funds insufficient'. So, issued a statutory notice and after completing the statutory formalities, a private complaint was filed before the trial court, which was also taken cognizance in CC No.657 of 2018.



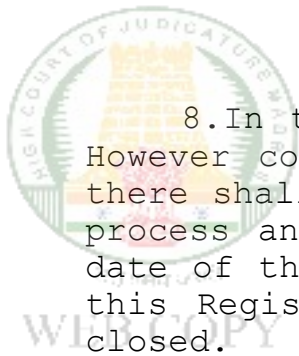
3. Seeking quashment of the same, this petition has been filed mainly on the ground that this petitioner did not have any acquaintance with the respondent and the cheque, which was issued by him, has been misused. He is absolutely stranger to him. In respect of snatching of cheque leaf, criminal complaint was also given before the Superintendent of Police, Sivagangai and in a similar case, which was filed by one Kalidass, in STC No.193 of 2016 before the Judicial Magistrate, Fast Track Court, Karaikudi, he was acquitted. For the above said motive, this false case has been foisted.

4. Heard both sides.

5. The signature in the disputed cheque is not denied by the petitioner herein. It is the case of the petitioner/accused that the cheque, which was issued has been snatched with the connivance of the above Kalidass. The above said Kalidass has filed the above said STC No.193 of 2016 against this petitioner, which was also tried by the Judicial Magistrate, Fast Track Court, Karaikudi. In that case, the contention on the part of the petitioner is that for the purpose of borrowing the loan from the above said Kalidass, blank cheques and promissory notes have been obtained and as routine, that amount was also repaid. At the time of borrowing the amount from the above said Kalidass, he handed over six unfilled cheques. He executed only promissory note. By forging the signature in the above said cheque leaf, the case has been foisted by the above said Kalidass. That contention was accepted by the trial court and this petitioner was acquitted, by judgment, dated 17/06/2017. Whether any appeal has been preferred or not, is not clear on record.

6. Now whatever it may be, it is a factual issue. Whether the disputed cheque is a forged one or not is a matter for trial. Simply because, this petitioner has raised the defence before the trial court in STC No.193 of 2016 that the disputed cheque has been forged by the above said Kalidass and by using this respondent, this case has also been foisted, cannot be taken into account at this stage.

7. Moreover, the judgment has been rendered between the above said Kalidass and Sheik Dawood, who is the petitioner herein, which cannot be taken into account at this stage, while exercising the jurisdiction under 482 Cr.P.C. No doubt, that complaint has been given by the petitioner with the above said Kalidass on the ground that proceedings cannot be quashed. Except stating the factual aspect, no other legally sustainable argument has been advanced. Whether the petitioner is not having any legally enforceable liability, is also a matter for trial. So, I find no merit in this petition.



8.In the result, this criminal original petition is **dismissed**. However considering the fact that the matter is of the year 2018, there shall be a direction to the trial court to expedite the trial process and complete the same within a period of five months from date of the receipt of a copy of this order and report the same to this Registry. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

The Judicial Magistrate,
Fast Track Court,
Karur

Copy to:

The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.E.K.KUMARESAN, Advocate (SR-19965[F] dated 21/04/2022)

Crl.OP(MD)No.5256 of 2019
19.04.2022

RD(19/05/2022) 3P 4C