



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.01.2022

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.O.P. (MD) .Nos.8684 and 8685 of 2019

and

CRL.M.P (MD) Nos.5450, 5451, 5452 and 5453 of 2019

K.Karupaiah : Petitioner/Sole Accused
(in both petitions)

Vs.

M.Natarajan : Respondent/ Complainant
(in both petitions)

COMMON PRAYER : Criminal Original Petitions filed under Section 482 of Cr.P.C, to call for the records pertains to C.C.No.570 and 571 of 2019 on the file of Judicial Magistrate No.VI, Trichy and quash the same.

(in both petitions)

For Petitioner : Mr.V.S.Kishok Kumar

For Respondent : Mr.R.Narayanan

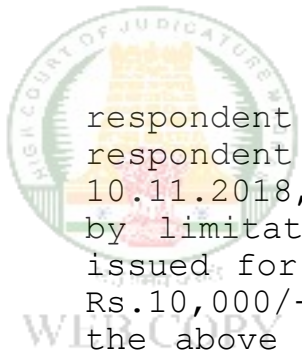
COMMON ORDER

These Criminal Original Petitions have been filed, invoking Section 482 of the Code of Criminal Procedure, seeking orders to call for the records relating to the cases in C.C.No.570 of 2019 and C.C.No. 571 of 2019 respectively, on the file of Judicial Magistrate No.VI, Trichy and quash the same.

2.When the matters were taken up for hearing on 07.12.2021, considering the submission made by the learned counsel for the respondent that the petitioner by citing the pendency of the quash petitions, has been dragging on the matter before the trial Court and that the trial is not yet commenced, this Court has passed an order directing the trial Court to proceed with the matter, since this Court has not passed any order staying the trial of the above cases.

3.When the matter is taken up for hearing today (04.01.2022), the learned counsel for the respondent would submit that the trial is not yet commenced and that the trial Court may be directed to dispose of both the cases within a time frame fixed by this Court.

4.The learned counsel for the petitioner would submit that the cheques, which were given in the year 2009 had been misused by the



respondent by creating a false story, that the case put forth by the respondent alleging cause of action that the cheques were issued on 10.11.2018, is utter false and that the cheque in dispute is barred by limitation. He would also submit that two cheques have been issued for security purposes, that despite payment of hand loan of Rs.10,000/-, the respondent had misused the said cheques and filed the above two cases, that the petitioner is a senior citizen aged about 76 years and is suffering from multiple health ailments and that the respondent by lodging the above complaint has been harassing the petitioner continuously.

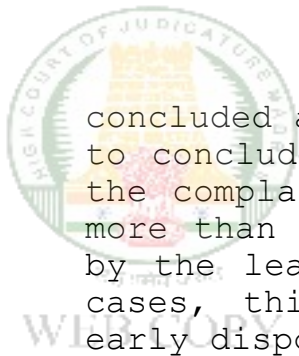
5.The learned counsel for the respondent/complainant would submit that the petitioner has approached the complainant for hand loan and borrowed a sum of Rs.9 lakhs to meet out his urgent family needs on 25.03.2017, promising to repay the same within six months with interest at 24% per annum, that the accused did not repay the borrowed amount within time stipulated, despite the repeated demands of the complainant, that the accused thereafter, in order to discharge the liability has issued a cheque in favour of the complainant on 10.11.2018 for Rs.9 lakhs, that when the cheque was presented for collection, the same was returned for want of sufficient funds in the Bank Account of the accused, that the complainant has sent a legal notice dated 05.01.2019 demanding payment of the amount covered by the cheque within 15 days from the date of receipt of the said notice and that since the accused had managed to return the postal cover unserved and the accused has not chosen to make the payment, the complainant was forced to file the above complaint.

6.The learned counsel for the respondent would further submit that the accused has again borrowed a sum of Rs.8 lakhs on 22.01.2018 on the same terms, that in order to discharge the liability, he issued a cheque for Rs.8 lakhs on 25.11.2018, that since the said cheque was also returned for want of sufficient funds, in the Bank Account of the accused, the complainant has sent a legal notice dated 05.01.2019 demanding payment and that since the accused has not chosen to repay the amount, the complainant was forced to lodge the second complaint.

7.As rightly contended by the learned counsel for the respondent/complainant, the pleas now raised by the accused cannot be gone into at this stage and the same are matter for trial. Since the complainant has shown *prima facie* case to proceed against the accused for the offence under Section 138 r/w Section 142 of the Negotiable Instruments Act, the learned Magistrate has rightly taken cognizance of the cases. Hence, this Court concludes that the above petitions are devoid of merits and are liable to be dismissed.

8.Admittedly, the above two cases are pending from 2019 onwards. Section 143(3) of the Negotiable Instruments Act provides that every trial under the said Section shall be

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concluded as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint. Since the above two cases are pending for the past more than three years and also taking note of the submissions made by the learned counsel on record for speedy disposal of the above cases, this Court is inclined to issue necessary directions for early disposal of the above cases.

9. In the result, these Criminal Original Petitions are dismissed. The learned Judicial Magistrate is directed to complete the trial and dispose of the case as expeditiously as possible, preferably within a period of five months from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// 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 No.VI,
Trichy.

+1 CC to M/s.R.NARAYANAN, Advocate (SR-633[F] dated 06/01/2022)
CRL.O.P. (MD) .Nos.8684 and 8685 of 2019
and
CRL.M.P (MD) Nos.5450, 5451, 5452 and 5453 of 2019
04.01.2022

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