



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V. SIVAGNANAM**

Crl.O.P.(MD) No.11617 of 2020 and

Crl.M.P(MD).No. 5297 of 2020

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Manimaran

...Petitioner

Vs.

N.K. Ragupathy

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order passed in Crl.R.P.No.73 of 2019 on the file of the Additional District and Sessions Judge (Fast Track Court), Kumbakonam against Crl.M.P.No.2243 of 2019 in STC.No.784 of 2018 on the file of the District Munsif Cum Judicial Magistrate, Papanasam.

For Petitioners : Mr. K.Guhan

For Respondents : Mr.G. Karnan

ORDER

This Criminal Original Petition is filed challenging the order, dated 24.03.2020 passed in Crl.R.P.No.73 of 2019 on the file of the Additional District and Sessions Judge (Fast Track Court), Kumbakonam by confirming the order, dated 09.11.2019 passed in Crl.M.P.No.2243 of 2019 in STC.No.784 of 2018 on the file of the District Munsif Cum Judicial Magistrate, Papanasam.

2. The learned counsel appearing for the petitioner submitted that the petitioner is an accused in STC.No.784 of 2018 for the offences under Section 138 of Negotiable Instruments Act, pending on the file of the District Munsif Cum Judicial Magistrate, Papanasam. While examining the complainant witnesses, they have marked the alleged promissory note executed by the petitioner's wife as Ex.P1. During the cross examination, the complainant has no objection for forwarding the promissory note to the expert opinion with regard to the genuineness of the signature of the petitioner's wife. Based on that evidence, the petitioner filed an application in Crl.M.P.No.2243 of 2019 for forwarding the Ex.P1- promissory note for the expert opinion that was dismissed by the trial Court on the ground that the promissory note is not issued in that case and the case was filed only for dishonour of cheque issued by the petitioner / accused. Aggrieved by the said order, he filed revision in Crl.R.P.No.73 of 2019 before the Additional District and Sessions Judge (Fast Track Court), Kumbakonam and the same has also been dismissed by confirming the order of the trial Court. Now, the said order is challenged by the petitioner before this Court.



3. The learned counsel appearing for the respondent submitted that the issue before the trial Court is with regard to the alleged cheque issued by the accused to the complainant, not the promissory note executed by the petitioner's wife and she has also not a party to the proceedings.

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4. Considering the submission made by the learned counsel for the parties and on perusal of the facts reveals that the petitioner is an accused in STC.No.784 of 2018, in which, he was prosecuted for dishonouring of cheque, dated 2.10.2018 for the amount of Rs.5,00,000/- issued by the accused to the complainant for the debt of Rs.5,00,000/-. During the trial, the complainant marked Ex.P1 alleged pronote executed by the petitioner's wife, in that promissory note, the signature of the petitioner's wife is questioned and consented no objection for forwarding the same to the expert opinion.

5. On perusal of the records, it reveals that the case is pertaining to the cheque issued by the complainant for the transaction of Rs.5,00,000/- ,that cheque was allegedly dishonoured. Hence, the complainant filed a criminal case against the accused for the cheque dishonoured and the alleged Ex.P1 is not issued before the trial Court. In these circumstances, sending Ex.P1 promissory note executed by the petitioner's wife is un-warranted and the trial Court has rightly dismissed the Crl.R.P.No.73 of 2019, on the file of the Additional District and Sessions Judge (Fast Track Court), Kumbakonam by confirming the order passed in Crl.M.P.No.2243 of 2019 in STC.No.784 of 2018 on the file of the District Munsif Cum Judicial Magistrate, Papanasam. Hence, I find no infirmity in the order passed by the Courts below.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

trp
To

1. The Additional District and Sessions Judge (Fast Track Court), Kumbakonam.



2. The District Munsif Cum Judicial Magistrate, Papanasam.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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+1 CC to M/s.K. GUHAN, Advocate (SR-27619[F] dated 23/06/2022)

+1 CC to M/s.G. KARNAN, Advocate (SR-27899[F] dated 24/06/2022)

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