



CrI.O.P.(MD) No.12754 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.(MD) No.12754 of 2022

and

CrI.M.P.(MD).No.8075 of 2022

Johnson

...Petitioner

Vs.

Gururajan

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the complaint in S.T.C. No.560 of 2022 on the file of the learned District Munsif Court Cum Judicial Magistrate Court, Kamuthi and quash the same as illegal.

For Petitioner : Mr.R.Karunanidhi



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ORDER

This Criminal Original Petition has been filed to quash the complaint in S.T.C.No.560 of 2022 on the file of the learned District Munsif Court Cum Judicial Magistrate Court, Kamuthi.

2. The learned counsel for the petitioner submitted that the respondent complainant filed a private complaint against the petitioner for dishonour of Cheque bearing No.545615 dated 23.09.2021 of State Bank of India, Ramanathapuram Branch, Ramanathapuram maintained by the petitioner accused for payment of Rs.5,00,000/- (Rupees Five Lakhs only) towards the liability. Now, the learned counsel for the petitioner submitted that the cheque bearing no.545615 dated 23.09.2021 was not give by the petitioner accused to the complainant to compensate the loss to the complainant. It was given to the complainant at the time of entering into the agreement in the month of February 2021 for leasing the fishing pond with the complainant. To support this case, he relied upon the mentioning the details of bank and account number as Account



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Number: 30469806195, State Bank of India, Ramanathapuram Branch, Ramanathapuram). Therefore, since there is no liability and the cheque was misused by the complainant, which was given at the time of agreement in the year February 2021, hence, he pleaded to quash the complaint in S.T.C.No.560 of 2022.

3. I have considered the matter in the light of the submissions made by learned counsel for the petitioner.

4. On perusal of the records it is seen that the petitioner is an accused in S.T.C.No.560 of 2021 on the file of Judicial Magistrate, Kamuthi. According to the complainant, the petitioner and the complainant entered into the lease agreement with regard to fishing in the complainant's pond. After completion of lease period while standing over the position the accused failed to maintain the equipments in good condition for the loss to compensate to the complainant. The petitioner gave a cheque of Rs.5,00,000/- (Rupees Five Lakhs only) bearing Cheque No.545615 dated 23.09.2021 of State Bank of India, Ramanathapuram Branch, Ramanathapuram maintained by the



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petitioner's accused which was dishonor. Hence private complaint has been filed. The contention of the petitioner is that the cheque was not given to compensate the damage of equipments, it was given at the time of entering into agreement in the year 2021 as security not as to compensate the loss to the complainant which was misused by the complainant. His argument is not supported by agreement dated February 2021. Perusal of the agreement reveals the fact that in the agreement, the handing over of disputed cheque filed in the private complaint is not mentioned. But mentioned only account number. Under these circumstances, at this stage, it cannot be concluded that the disputed cheque was given as security at the time of entering into the agreement. It has to be decided before the Trial Court when the cheque was issued and for what purpose it was issued. The petitioner takes the factual defense on handing over the cheque, it has to be decided by the Trial Court by letting evidence and it is inappropriate to quash to proceedings before the commencement of the trial. Hence, I find no merits in this case and it is liable to be dismissed.



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5. Accordingly, this criminal original petition stands dismissed.

Consequently, connected miscellaneous petition stands closed.

18.07.2022

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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

Nsr

To

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



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V.SIVAGNANAM, J.

Nsr

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