



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.18469 of 2019

and

Crl.MP(MD)No.10843 of 2019

Kalaipunithan : Petitioner/Accused

Vs.

Manjula : Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in STC No.3791 of 2019 on the file of the Judicial Magistrate No.IV, Trichy and quash the same.

For Petitioner : Mr.M.Ramu

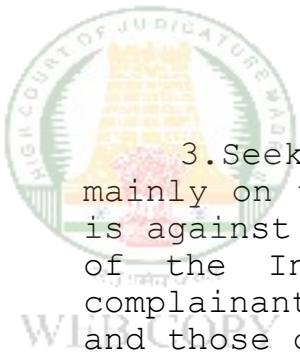
For Respondent : No appearance

O R D E R

This criminal original petition is filed seeking quashment of the case in STC No.3791 of 2019 on the file of the Judicial Magistrate No.IV, Trichy.

2.The case of the prosecution in brief:-

The respondent has filed a private complaint before the trial court and it was taken cognizance in STC No.3791 of 2019 containing the following averments. Some time back in December 2017, the accused persons approached the complainant stating that he can procure a job in Food Corporation of India, if he pays Rs.10,00,000/-. Believing the words of the above said offer, the complainant transferred Rs.6,42,500/- through bank transaction and he affirmed that before the end of May 2018, appointment order will be received by the complainant. But later, the accused person failed to keep his promise. Promising to repay the above said amount, he issued six cheques on various dates, as mentioned in the complaint, promising to honour the cheques. Three cheques were presented for payment. But those three cheques were returned on 19/02/2019, 18/03/2019 and upon which, statutory notice was issued to the accused. He also issued a reply containing false averments.



3. Seeking quashment of the same, this petition has been filed mainly on the ground that the agreement performed by the respondent is against public policy, upon which no right lies as per section 24 of the Indian Contract Act. He received the amount from the complainant to meet his urgent necessities, then the amount was paid and those cheques were given as only security. After discharging the amount, when that was demanded back, the respondent failed to return the same.

4. In spite of the notice to the respondent, she did not appear.

5. At one point of time, the learned counsel appearing for the petitioner would submit that the amount has been settled to the respondent. On that score, the learned counsel originally appearing for the respondent submitted that the entire amount was not settled, So on that ground, it was referred to the mediation and in the mediation process, the petitioner remained absent. But later, it was submitted that on 21/02/2021 in the mediation process, there was settlement between the parties. For the purpose of appearance of the parties, the mediation was adjourned to 03/01/2021. Thereafter, the parties did not appear.

6. The learned counsel appearing for the respondent on record has stated that he could not contact the respondent. So on the ground, notice was ordered to the respondent through police, by order, dated 14/02/2022 and the notice was issued to the respondent through the jurisdictional police namely Cantonment Police Station, Trichy. It was served by the police and it was received by the respondent on 02/03/2022. When the matter is called on 04/03/2022, she failed to appear and there is no representation also.

7. On the earlier hearing, the learned counsel appearing for the petitioner has produced the document of receipt stating that the respondent executed the receipt in respect of the claim that has been made in this case on the ground that she received Rs.5,00,000/- in total and also returned the three cheques that were available with her, which is, dated 04/07/2020. When we compare the signature of the respondent in the above said copy of the receipt with that of the notice served by the police, it is seen that it was signed by the respondent herein. Similarly, when we compare the valakath filed by the earlier counsel appearing for the respondent, it is seen that both are similar in nature. So, we can safely conclude that the respondent has received the disputed cheque amount and also issued receipt.

8. In the light of the above development, I am of considered view that the petition deserves to be allowed and accordingly, this criminal original petition is **allowed** in view of the compromise that has been reached between the parties. The impugned proceedings in



Trichy is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

WEB COPY

/ /2022

Sub Assistant Registrar(CS)

er

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.IV,
Trichy.

+1 CC to M/s.M. RAMU, Advocate (SR-16577[F] dated 05/04/2022)

CrI.O.P.(MD)No.18469 of 2019
04/04/2022

NSN(CO)
KB(28.04.2022) 3P 3C