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Crl.OP.No.670 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

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THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.670 of 2023

and

Crl.M.P.Nos.341 and 342 of 2023

V.Balasubramaniam

Vs.

... Petitioner

Angamuthu

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to quash the complaint filed in S.T.C.No.199 of 2019 on the file of Judicial Magistrate (FTC), Tiruchengode under Section 200 of Cr.P.C. read with 138 of Negotiable Instruments Act.

For Petitioner : Mr.C.S.Saravanan

ORDER

This Criminal Original Petition for quashing the complaint filed in S.T.C.No.199 of 2019 on the file of Judicial Magistrate (FTC), Tiruchengode under Section 200 of Cr.P.C. read with 138 of Negotiable Instruments Act.



Crl.OP.No.670 of 2023

WEB COPY

2. The learned counsel for the petitioner submitted that the petitioner borrowed a sum of Rs.1,65,000/- from the wife of the respondent namely one Mageshwari. The said Mageshwari had given a legal notice dated 10.04.2018, seeking return of money. Thereafter, the petitioner had settled that amount to said Mageshwari. Now, a private complaint in STC.No.199 of 2019 is filed for the offence under Section 138 of Negotiable Instruments Act by the husband of the Mageshwari one Angamuthu. The allegation that the petitioner borrowed a sum of Rs.2,00,000/- from Angamuthu on 30.06.2016 and to discharge the said debt, he issued a cheque and the said cheque was returned for want of funds are not true. It is further submitted that the learned counsel for the petitioner the case is filed even without issuing legal notice. Thus, he prays for quashing the complaint filed in S.T.C.No.199 of 2019 on the file of Judicial Magistrate (FTC), Tiruchengode under Section 200 of Cr.P.C. read with 138 of Negotiable Instruments Act.

3. Considered the submission and perused the records.

2/5



Crl.OP.No.670 of 2023

WEB COPY

4. On going through the complaint, this Court finds that the allegations in the complaint are that, the petitioner borrowed a sum of Rs.2,00,000/- from the respondent Angamuthu on 30.06.2016, agreeing to repay the amount with interest of Rs.1/- per hundred within a period of 12 months. In order to pay this amount, the petitioner said to have issued a cheque for Rs.2,10,000/- on 11.04.2018 drawn at South Indian Bank, Bhavani Branch bearing Cheque No.791290. When the cheque was presented for collection on 19.04.2018, it was returned on 21.04.2018 for want of funds. Thereafter, the respondent has sent a legal notice dated 27.04.2018 demanding the re-payment within a period of 15 days. This notice is said to have been received by the petitioner on 04.05.2018.

5. Therefore, the submission of the learned counsel for the petitioner that the case in STC.No.199 of 2019 was filed, even without issuing statutory notice is absolutely not correct. The list of documents also shows that copy of the notice and acknowledgment of the petitioner are also produced in support of the case of the respondent. The allegation that petitioner had not borrowed the amount and



Crl.OP.No.670 of 2023

issued a cheque are disputed facts and it requires evidence to decide on the disputed facts. This petition has no merits and it is filed only to drag on the proceedings in STC.No.199 of 2019.

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

12.01.2023

Internet : Yes / No

Index : Yes / No

Speaking/Non speaking order

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To

The Judicial Magistrate (FTC),
Tiruchengode

4/5



WEB COPY



Crl.OP.No.670 of 2023

G.CHANDRASEKHARAN,J.

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Crl.O.P.No.670 of 2023

12.01.2023

5/5