



Crl.OP.No.4145 of 2021

'IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.4145 of 2021
and
Crl.MP.Nos.2617 & 2620 of 2021

S.Parthiban @ Muniyparthiban

... Petitioner

Vs.

R.Dhanalakshmi

... Respondent

PRAYER:

Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records relating to STC.No.103 of 2020 on the file of the learned Judicial Magistrate, Thiruvottiyur, Thiruvallur District and to quash the same.

For Petitioner : Mr.A.Senthil Kumar
for Mr.T.P.Sekar

For Respondent : Mr.P.K.Ganesh

ORDER

This Criminal Original Petition has been filed to quash the proceedings in STC.No.103 of 2020 on the file of the learned Judicial Magistrate, Thiruvottiyur, Thiruvallur District taken cognizance for the offence



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punishable under Section 138 of Negotiable Instruments Act.

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2. Heard, the learned counsel appearing on either side.

3. The crux of the complaint is that the petitioner received a sum of Rs.1,25,000/- in order to arrange a job for the son of the respondent. However, he failed to arrange job and as such, in order to repay the said amount, the petitioner issued a cheque for a sum of Rs.1,25,000/-. It was presented for collection. However, it was returned dishonoured for the reason drawer signature differs. After causing legal notice, the respondent lodged complaint.

4. The petitioner on receipt of the statutory notice, sent his reply and stated that the petitioner never issued any cheque in favour of the respondent. The respondent's son is a friend of the petitioner. He had handed over a cell phone for sale. While receiving the said cell phone, he asked for security document, for which the petitioner issued cheque without filling the same. However, it was filled in the name of the respondent and presented for collection. That apart, the respondent also lodged complaint before the Inspector of Police, Podaturpet Police Station, Tiruvallur District. In the said complaint, the Inspector of Police conducted detailed enquiry and closed the



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same. Thereafter, the said cheque was filled in the name of the respondent and presented for collection. However, on receipt of the said reply notice, the respondent failed to send any rejoinder. On the strength of the legal notice, the respondent lodged complaint.

5. Further there is some force in the submission of the learned counsel for the petitioner that the cheque was never issued for any legally enforceable debt in favour of the respondent. That apart, even according to the respondent, the petitioner was paid a sum of Rs.1,25,000/- in order to get a Government job for her son. However, the respondent did not even whisper about her son's name and what was the job offered by him. Further, nothing was whispered about the qualification. Therefore, the petitioner by way of reply notice rebutted the presumption arising under Section 138 of NI Act. Therefore, no prosecution can be sustained as against the petitioner and it is liable to be quashed.

6. Accordingly, the entire proceedings in STC.No.103 of 2020 on the file of the learned Judicial Magistrate, Thiruvottiyur, Thiruvallur District is quashed and this criminal original petition is allowed. Consequently, connected



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miscellaneous petitions are closed.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
lok



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To
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The learned Judicial Magistrate,
Thiruvottiyur, Thiruvallur District

G.K.ILANTHIRAIYAN, J.

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