



CrI.O.P.Nos.18559, 18563, 18564, 18565 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM:

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

CrI.O.P.Nos.18559, 18563, 18564, 18565 of 2019

and

CrI.M.P.Nos.9410, 15338, 9413, 15336, 9415, 15333, 9417
and 15334 of 2019

CrI.O.P.No.18559 of 2019:-

Mani @ Muthiah

...Petitioner

-Vs-

Nanthakumar

... Respondent

Prayer : Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to S.T.C.No.398 of 2019 on the file of the learned Judicial Magistrate, Oothankarai and quash the same.

CrI.O.P.No.18563 of 2019:-

Mani @ Muthiah

...Petitioner

-Vs-

Lakshmanan

... Respondent

Prayer : Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to S.T.C.No.399 of 2019 on the file of the learned Judicial Magistrate, Oothankarai and



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quash the same.

Crl.O.P.No.18564 of 2019:-

Mani @ Muthiah

...Petitioner

-Vs-

Prabhu

... Respondent

Prayer : Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to S.T.C.No.400 of 2019 on the file of the learned Judicial Magistrate, Oothankarai and quash the same.

Crl.O.P.No.18565 of 2019:-

Mani @ Muthiah

...Petitioner

-Vs-

Prabhu

... Respondent

Prayer : Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to S.T.C.No.401 of 2019 on the file of the learned Judicial Magistrate, Oothankarai and quash the same.

In all Crl.O.Ps

For Petitioner

: Mr.M.Solaisamy

For Respondents

: Mr.S.Sathish Rajan



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COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in C.C.Nos.398, 399, 400 and 401 of 2019 on the file of the learned Judicial Magistrate, Oothankarai.

2. In all these petitions, the petitioner is one and the same and the respondents are different. The respondents filed complaints for the offence under Section 138 of Negotiable Instruments Act as against the petitioner. Therefore, this Court is inclined to pass a common order.

3. All the complaints are filed for the offence under Section 138 of Negotiable Instruments Act. In respect of S.T.C.No.398 of 2019, on the file of the learned Judicial Magistrate, Oothankarai, it is alleged that the petitioner borrowed a sum of Rs.10,00,000/- on 27.05.2018 and issued cheque Bearing No.000105 dated 22.11.2018 for a sum of Rs.10,00,000/-. In respect of the complaint lodged in S.T.C.No.399 of 2019, on the file of the learned Judicial Magistrate, Oothankarai, it is alleged that the petitioner borrowed a sum of Rs.15,00,000/- on 10.03.2018 and in order to repay the said amount, he issued cheques for sum of Rs.8,00,000/- and Rs.7,00,000/- bearing Nos.000102 and 000103 dated 22.11.2018. In respect of S.T.C.No.400 of 2019, on the file of the



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learned Judicial Magistrate, Oothankarai, it is alleged that the petitioner borrowed a sum of Rs.13,00,000/- on 10.03.2018 and in order to repay the said amount, he issued cheque for a sum of Rs.13,00,000/- bearing No.000101 dated 22.11.2018. In respect of the complaint in S.T.C.No.401 of 2019, on the file of the learned Judicial Magistrate, Oothankarai, it is alleged that the petitioner had borrowed a sum of Rs.13,00,000/- on 10.06.2018 and issued a cheque bearing No.000104 on 22.11.2018 for a sum of Rs.13,00,000/-. All the cheques were presented by the respondents in their respective banks. All the cheques returned dishonoured for the reason “Funds Insufficient”. After causing statutory notice, complaints were lodged.

4. All the respondents are hailing from the same place viz., Oothankarai Taluk, Krishnagiri District. The respondent in CrI.O.P.No.18559 of 2019 namely, one Nanthakumar is the master brain behind the complaints lodged for the offence under Section 138 of Negotiable Instruments Act.

5. A perusal of records revealed that on 10.09.2013, the petitioner



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borrowed a sum of Rs.5,00,000/- from the said Nanthakumar. At the time of borrowal of the said loan, he had also executed a pro-note and issued post dated signed blank cheque along with signed blank stamp paper. Though the entire amount was returned by the petitioner, the respondent did not handover the blank signed stamp paper. When the petitioner repeatedly asked for the said stamp paper, on 11.09.2016, the said Nanthakumar, respondent in Crl.O.P.No.18559 of 2019 and other accused viz., the respondents in other petitions, came to his house by car and attacked him, as if the petitioner failed to repay the loan amount. Immediately, a complaint was lodged by the petitioner and the same was registered in Crime No.328 of 2016 for the offences under Sections 294(b), 323, 506(2) IPC as against four accused, on the file of the Inspector of Police, Sholavandhan Police Station, Madurai District. After completion of investigation, charge sheet was laid and the same has been taken cognizance in C.C.No.42 of 2019, on the file of the learned Judicial Magistrate I, Vadipatti, for the offences under Sections 294(b), 352, 506(2) IPC and it is pending for trial. Pending trial, once again, the respondents came to the house of the petitioner on 02.11.2018 and trespassed into his theatre and on threatening, grabbed the cheques which were to be drawn on Karur Vysya Bank bearing Nos.000101 to 000108



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and obtained his signature. They also threatened him with dire consequences. Immediately, the petitioner lodged a complaint before the Inspector of Police, Sholavandhan Police Station, Madurai District, Madurai. However, no FIR was registered and as such, he was constrained to lodge a complaint before all the higher officials. However, no action has been taken as against the respondents. Pending Trial in C.C.No.42 of 2019, on the file of the learned Judicial Magistrate I, Vadipatti and pending enquiry on the complaint lodged by the petitioner dated 02.11.2018 and 29.11.2018, no prudent man would have lent the huge sum viz., Rs.10,00,000/-, Rs.15,00,000/-, Rs.13,00,000/- and Rs.13,00,000/- to the respective respondents herein.

6. A perusal of the complaint lodged by the respondents revealed that in order to develop his business, the petitioner borrowed huge amount from the respondents who are hailing from the same place, that too without any security. It is also seen that all the cheques, which were presented by the respondents, were already grabbed by the respondents on 02.11.2018 from the petitioner, drawn on Karur Vysya Bank, Ayyankottai Branch. That apart, all the cheques were allegedly issued by the petitioner on the same date viz., 22.11.2018. Admittedly, all the



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respondents are accused in the complaint lodged by the petitioner in C.C.No.42 of 2019, on the file of the learned Judicial Magistrate I, Vadipatti. After receipt of the statutory notice issued by the respondents, the petitioner categorically replied that all the cheques were already grabbed by them on threatening, on 02.11.2018 itself, for which the petitioner also lodged a complaint.

7. The learned counsel for the respondents submitted that pending these petitions to quash the proceedings initiated by the respondents under Section 138 of Negotiable Instruments Act, the petitioner himself had come forward to settle part of the amount. In fact, two quash petitions were dismissed as withdrawn by the petitioner, after settling the amount in Crl.O.P.No.18568 of 2019 and 18556 of 2019. He had also produced the copy of the receipt issued by the respondents for part amount settled by the petitioner. Therefore, the petitioner accepted his liability and settled part amount of the loan borrowed by him.

8. These contentions cannot be considered for the reason that same counsel had appeared for all the respondents before this Court. All the respondents are hailing from the same place and cheques were issued



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by the petitioner, in order to repay the borrowed amount on the same day

viz., 22.11.2018. These cheques were already grabbed by the respondent

in Crl.O.P.No.18559 of 2019. Other respondents are none other than his

benami and name lenders. Further except the cheques which were

allegedly issued by the petitioner, no other document is filed in support of

their proceedings initiated under Section 138 of Negotiable Instruments

Act. No prudent man would lend such huge money when the criminal

case initiated by the borrower is pending against them. According to the

respondents, huge sum was borrowed by the petitioner that too without

any security. Now, it is a trend that the defacto complainants themselves

produce a copy of the receipt for part of the amount out of the cheque

amount as if the complainant was settled by the accused in order to get

bonafide of their complaint.

9. The learned counsel for the petitioner categorically denied that the petitioner never settled any amount and the said receipt does not contain any signature of the petitioner. They themselves filed a complaint and subsequently, they had withdrawn the same in the Trial Court itself.

Therefore, the petitioner had withdrawn the quash petitions in



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Crl.O.P.Nos.18568 of 2019 and 18556 of 2019. Therefore, all the complaints lodged by the respondents are nothing but a clear abuse of process of law and all the complaints cannot be sustained as against the petitioner and the alleged cheques were not issued for any legally enforceable debt and they were grabbed by the respondent in Crl.O.P.No.18559 of 2019 and presented the cheques on various persons names, viz., other respondents in other petitions.

10. Therefore, the proceedings in C.C.Nos.398, 399, 400 and 401 of 2019 on the file of the learned Judicial Magistrate, Oothankarai, cannot be sustained as against the petitioner. Accordingly, the proceedings in C.C.Nos.398, 399, 400 and 401 of 2019 on the file of the learned Judicial Magistrate, Oothankarai, are hereby quashed.

11. The Inspector of Police, Sholavandhan Police Station, Madurai District, is directed to take appropriate action as against all the respondents on the complaint lodged by the petitioner on 02.11.2018 and 29.11.2018.

12. In the result, these Criminal Original Petitions are allowed.



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Consequently, connected Miscellaneous petitions are closed.

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20.11.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
mn

G.K.ILANTHIRAIYAN. J.

mn

To

1. The Judicial Magistrate, Oothankarai.
2. The Inspector of Police,



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Sholavandhan Police Station,
Madurai district.

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