



WEB COPY



Crl.OP.Nos.23612 of 2021, etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

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

Crl.OP.Nos.23612, 24443, 23762, 23765, 24008, 23689, 23798, 24015, 24018,
24465 & 24494 of 2021

and

Crl.MP.Nos.12989, 12987, 13468, 13470, 13079, 13081, 13083, 13085,
13252, 13253, 13056, 13057, 13100, 13102, 13255, 13256, 13258, 13259,
13478, 13479, 13489 & 13490 of 2021

Crl.OP.No.23612 of 2021

Robert Nirmal Singh

... Petitioner

Vs.

Ajith S.Lulla

rep. By his power agent

S.Mohan

... Respondent

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records pertaining to STC.No.51 of 2021 on the file of the learned Judicial Magistrate, Thiruvottiyur and to quash the same.

For Petitioner

in all Crl.OP's

: Mr.R.A.S.Senthilvel

For Respondent

in all Crl.OP's

: Mr.Mehek Asrani



WEB COPY



Crl.OP.Nos.23612 of 2021, etc batch

COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in STC.Nos.51 to 61 of 2021 on the file of the learned Judicial Magistrate, Thiruvottiur thereby taken cognizance for the offences under Section 138 of Negotiable Instruments Act as against the petitioner.

2. In all the criminal original petitions, all the petitioner and the respondent are the same. The respondent filed complaints for the offence punishable under Section 138 of NI Act as against the petitioner. The crux of the complaint in all the cases is that the respondent is doing money lending business. The petitioner and the respondent are friends and are well known to each other for several years. The petitioner borrowed multiple loan amounts for his business purpose and also for his personal needs. The entire loan was consolidated under the registered mortgage of deposit of title deeds. In order to make partial discharge of the said loan, the petitioner issued cheques for various amounts. All the cheques were presented for collection and the same were returned dishonoured for the reason 'contact drawer, drawee bank, present again'. On issuance of statutory notice, the respondent lodged complaints.



Crl.OP.Nos.23612 of 2021, etc batch

WEB COPY

3. On perusal of reply notice sent by the petitioner in all the complaints, revealed that the petitioner and the respondent are friends with regards to money transaction. The petitioner borrowed so many amounts and the same were duly repaid to the respondent. Due to the said understanding between them, the respondent had given a false promise to the petitioner as if to mortgage the property to avail huge sum of loans for starting various business such as super market, petrol bunk, sea boating, omni bus, etc. in partnership. Believing the said words, the petitioner transferred three immovable properties in favour of the respondent. That apart, the petitioner also handed over the deposit of title deeds by mortgaging to avail loan from the bank. However, the respondent as promised by him, failed to avail any loan from the bank to start any business. Though the petitioner repaid the entire loan amount, the respondent failed to return the cheques, pronotes and other documents which were received as security at the time of borrowing loan. Further, all the cheques were returned dishonoured for the reason 'contact drawer, drawee bank, present again'.

4. Admittedly, the respondent failed to contact the petitioner and



CrI.OP.Nos.23612 of 2021, etc batch

never represented the cheque. Therefore, what is the original reason for

returning the cheque is not stated in the notice and it would not amount to

offence under Section 138 of NI Act. The alleged cheques were not returned

for any of the reason as if mistake committed by the petitioner. Further, on

perusal of complaint, the entire allegations are bald and vague and the

respondent did not even stated what was the amount borrowed by the

petitioner and on what date. Simply he stated that towards discharge of partial

liability, the petitioner issued cheques. All the cheques are dated 28.12.2020,

29.12.2020 and 31.12.2020. Therefore, no prudent man would have issued

cheques for these amounts. It shows that the cheques were issued for the

purpose of security at the time of availing loan. Admittedly, the petitioner had

executed sale deed in favour of the respondent in respect of three immovable

properties by the registered sale deeds. Further, petitioner lodged complaint for

the offence committed by the respondent and the same has been registered in

crime No.99 of 2022 on the file of the Central Crime Branch Chennai for the

offence under Sections 420 and 406 of IPC. Pursuant to the registration of FIR,

the respondent was also arrested and remanded to judicial custody. Thereafter,

he was granted bail. Therefore, the present complaints are nothing but clear

abuse of process of law and they cannot be sustained. As such, all the



CrI.OP.Nos.23612 of 2021, etc batch

impugned proceedings are liable to be quashed.

WEB COPY 5.

Accordingly, the entire proceedings in STC.Nos.51 to 61 of 2021 on the file of the learned Judicial Magistrate, Thiruvottiyur are quashed and all the criminal original petitions are allowed. Consequently, connected miscellaneous petitions are closed.

22.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

The learned Judicial Magistrate,
Thiruvottiyur

Crl.OP.Nos.23612, 24443, 23762, 23765, 24008,
23689, 23798, 24015, 24018, 24465 & 24494 of 2021

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