



Crl.O.P.No.4018 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.4018 of 2022
and
Crl.M.P.Nos.1980, 1981 & 9392 of 2022

L.N.Iyyapane

... Petitioner

Versus

Muruganantham

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C.No.446 of 2021 on the file of the learned Addl. District Munsif cum Judicial Magistrate No.II, Karaikal and quash the same.

For Petitioner : Mr.S.P.Vijayaragavan

For Respondent : Mr.R.Natarajan



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ORDER

The petitioner is the accused in S.T.C.No.446 of 2021 and he preferred this Criminal Original Petition seeking to quash the case in S.T.C. No.446 of 2021 on the file of learned Addl. District Munsif cum Judicial Magistrate No.II, Karaikal.

2. Heard both sides.

3. The case of the respondent is that for an urgent need, the petitioner had borrowed a sum of Rs.2,99,000/- on 23.04.2020 on the strength of a promissory note, thereby he has issued a cheque bearing No.128756 dated 03.06.2021 drawn on Andhra Bank, Karaikal towards discharge of the said liability. When the cheque was presented on instructions of petitioner on 25.06.2021 at the respondent's bank, it was returned as "Account closed". Thereafter, the respondent issued a demand notice dated 03.07.2021 to him and the petitioner had replied to the said notice. Accordingly, he preferred a complaint under Sec.138 of Negotiable Instruments Act against the petitioner.



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4. The learned counsel for petitioner would submit that the alleged cheque in question was not issued by him nor he is having any legal liability to the respondent herein. Moreover, the cheque under possession was not issued in the individual name of petitioner, on the other hand, it was issued on behalf of Sivaram Builders. Furthermore, he would also submit that he retired from the said firm in the year of 2018 and the alleged cheque was of the year 2021 said to be issued on behalf of Sivaram Builders. So, the complaint registered against him, as such is erroneous one and it is a defraud claim. Moreover, if at all, the cheque is issued on behalf of the said firm, the alleged partnership firm is also to be added as a party to the proceedings. But in the said complaint, the respondent herein initiated criminal proceedings only against him as a individual capacity. Hence, he prayed to quash the proceedings as it is a vexatious claim.



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5. The learned counsel for respondent/defacto complainant would submit that before filing the complaint under Sec. 138 and 142 of Negotiable Instruments Act r/w 420 of I.P.C., he issued a notice for demanding payment and the same was replied by his reply notice dated 23.07.2021, wherein he took a different stand, but now on the contrary, he filed this Criminal Original Petition to quash the proceedings, due to which, he is not able to continue the Negotiable Instruments Act proceedings. He would further submit that he is the person for defrauding many number of persons and grabbing the properties of individuals, thereby, F.I.R. was also lodged against him under landgrabbing offence before the Magistrate court. But, the learned counsel for petitioner raised strong objections stating that as an individual person, he is no way connected with the present case. Hence, he prayed to quash the proceedings.

6. On seeing the facts, it reveals that he is one of the partner of the firm viz., Sivaram Builders and reply was also given by the petitioner,



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wherein he denied the legal liability, which needs detailed investigation and evidence. Therefore, I do not find any merit in this petition. If at all, any legal defence is available, the petitioner is entitled to work out the same before the trial court. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

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Index: Yes/No
Internet: Yes/No
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T.V.THAMILSELVI, J.

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