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Crl.O.P.No.23214 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.23214 of 2022

and

Crl.M.P.Nos.14840 of 2022

R.Murugan

... Petitioner

Vs.

K.Elumalai

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the entire records connected with S.T.C.No.408 of 2019 pending on the file of the Fast Track Court (Magistrate Level) at Poonamallee and quash the charge sheet / final report.

For Petitioner : Mr.N.Suriyamuthu

For Respondent : Service awaited



Crl.O.P.No.23214 of 2022

ORDER

The petitioner has filed this Criminal Original petitions to quash the proceedings in S.T.C.No.408 of 2019 pending on the file of the Fast Track Court (Magistrate Level) at Poonamallee, in which cognizance was taken for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. The prosecution's case is that the petitioner, a relative of the respondent, requested financial assistance of Rs. 5,00,000/- from the respondent for business purposes. Considering their relationship, the respondent provided a sum of Rs. 5,00,000/- (Rupees Five Lakhs only) and executed a letter of acknowledgment of the loan to that effect. Additionally, the respondent deposited the original deed of General Power of Attorney, executed in favor of the petitioner by one J. Christhu Dass, as additional security for the loan. To discharge part of the above liability, the accused issued two cheques bearing Nos. 038456 and 038757, respectively, dated 20.12.2018, with the respondent's banker. These cheques were returned on 21.12.2018 with the observation of insufficient funds. Upon the petitioner's request, the respondent represented the cheques again on 30.01.2019, but



Crl.O.P.No.23214 of 2022

they were returned on 31.01.2019 with the note "payment stopped by drawer." Subsequently, the respondent issued a legal notice dated 11.02.2019 to the petitioner on 25.02.2019, calling for repayment of the amount of the dishonored cheques. The accused received the said notice on 27.02.2019 but allegedly did not comply with the legal notice within 15 days. Hence, the complaint was filed.

3. The learned counsel for the petitioner submitted that the petitioner is innocent and has not committed any offence as alleged by the prosecution. Therefore, he prays for the proceedings to be quashed.

4. The learned counsel for the respondent vehemently opposed the quashing of the proceedings, stating that the trial has commenced.

5. Considering the submissions of the learned counsel for the respondent, now that the trial has commenced, at this stage, this Court is not inclined to quash the proceedings in S.T.C. No. 408 of 2019, pending on the file of the Fast Track Court (Magistrate Level) at Poonamallee. However, liberty is granted to the petitioner to work out the remedy before the trial Court.



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Crl.O.P.No.23214 of 2022

T.V.THAMILSELVI, J.

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6. Accordingly, this Criminal Original Petition is dismissed and
Consequently, the connected miscellaneous petition is closed.

18.03.2024

Speaking Order/ Non Speaking Order

Index: Yes/ No

Neutral Citation: Yes/No

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To

1.The Fast Track Court (Magistrate Level)
Poonamallee

Crl.O.P.No.23214 of 2022
and
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