



Crl.O.P.No.20726 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.11.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.20726 of 2024

and

Crl.M.P.No.11906 of 2024

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Ranjani Subramaniyan

.. Petitioner

Vs.

S.Mohan Kumar

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records on the file of FTC - XIXth Metropolitan Magistrate, Allikulam, Chennai and quash the complaint in S.T.C.No.5261 of 2021.

For petitioner : Mr.V.V.Sairam

For respondent: Mr.B.Kumarasamy

ORDER

This petition has been filed to call for the records on the file of the FTC - XIXth Metropolitan Magistrate, Allikulam, Chennai and quash the complaint in S.T.C.No.5261 of 2021.

2. The respondent herein has filed a complaint under Section 138 of the

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Negotiable Instruments Act, against the petitioner herein in S.T.C.No.5261 of 2021 on the file of the 19th Metropolitan Magistrate, Allikulam, Chennai and the petitioner/accused has filed the present petition invoking Section 482 Cr.P.C. for the above said prayer.

3. Learned counsel for the petitioner submitted that even in the petition averments, it is stated that the amount was borrowed on 16.05.2016, whereas, the cheque was given only on 18.08.2021, which is time barred and hence, it cannot be enforced for clearing the debt and hence, it is not the legally enforceable debt. Further, no prudent man will lend such huge amount through cheque, without any supporting document, except the cheque of such nature, which is clear to show that the issuance of such a cheque itself is false. The petitioner has therefore filed this petition under Section 482 Cr.P.C.

4. The respondent/complainant has submitted that already he was examined as P.W.1 and now, it is only at the stage of his cross-examination and at this stage, the petitioner has come before this Court. Moreover, the facts and circumstances of this case is a mixed question of fact and law, and therefore, it cannot be decided in this petition filed under Section 482 Cr.P.C. and it has to be decided only by the Magistrate after trial and not at this stage.



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5. Heard both sides and perused the materials available on record.

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6. The petitioner has admitted that he had issued the cheque and the only plea of the defence is that it is a time-barred cheque, without any supporting document. The grounds taken by the petitioner cannot be decided at this stage by invoking the power of this Court under Section 482 Cr.P.C. and it has got to be decided only after trial and enquiry.

7. Therefore, in the above facts and circumstances, this Court is not inclined to invoke the power under Section 482 Cr.P.C. This petition is accordingly dismissed. However, the petitioner's personal appearance before the Court below, is dispensed with, however, the petitioner/accused has to appear before the Magistrate as and when his presence is required by the Court. The learned Magistrate is directed to dispose of the complaint itself on merits and in accordance with law, after conducting due enquiry and following due process of law, within a period of three months from the date of receipt of a copy of this order. Consequently, Crl.M.P.No.11906 of 2024 is closed.

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To

1. F.T.C - XIXth Metropolitan Magistrate, Allikulam, Chennai.
2. The Public Prosecutor, High Court, Madras.

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P.VELMURUGAN, J

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