



CrI.O.P.(MD)No.3239 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.3239 of 2022
and
CrI.M.P.(MD).No.2931 of 2022

B.Bebitkaran

... Petitioner / Accused

Vs.

Kodi Chandrasekaran

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case registered in impugned complaint in S.T.C.No.311 of 2021 on the file of the learned Judicial Magistrate No.II, Usilampatti and quash the same as illegal.

For petitioner : Mr.P.Mahendran

For Respondent : Mr.Ramachandrapradeep

ORDER

This petition has been filed seeking to quash the proceedings in S.T.C.No.311 of 2021 pending on the file of the learned Judicial Magistrate No.II, Usilampatti against the petitioner herein.



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2. The case of the prosecution is that the petitioner was the proprietor of J & J Traders. The said Firm was established in the year 2009. The petitioner had incurred some loss and the respondent herein, who is a money lender, gave some amount to the petitioner. The petitioner was regular in repayment of the loan with agreed rate of interest. When the petitioner was unable to repay the balance amount, the respondent asked to repay the balance amount, so that, the petitioner has issued a cheque. Thereafter, the respondent has presented the cheque for collection and the said cheque was returned as “Account closed”. Hence, the respondent sent a legal notice to the petitioner and the said notice was returned as “Left”. The respondent has sent another legal notice and after receiving the said notice, the petitioner herein has sent a false and vexatious reply to the respondent and the petitioner has not come forward to repay the amount. Thereby, the respondent made a private complaint before the learned Judicial Magistrate No.II, Usilampatti, for the alleged offence punishable under Sections 138 and 142 of the Negotiable Instrument Act r/w Section 200 of Cr.P.C. and the same was taken on file in S.T.C.No.311 of 2021 for the alleged offence punishable under Sections 138 and 142 of the Negotiable Instrument Act.



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3. The learned counsel appearing for the petitioner would submit that the petitioner has filed a petition for quashing the private complaint instituted by the respondent / complainant, however, during the pendency of this petition, the matter was posted for examination of P.W.2. However, he requests this Court to dispense with the personal appearance of the petitioner before the Court below.

4. Heard the learned counsel appearing for the respondent.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***



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6. For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.311 of 2021, pending on the file of the learned Judicial Magistrate No.II, Usilampatti. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

01.02.2024

Index : Yes/No

Internet : Yes/No

TSG

To

1. The Judicial Magistrate No.II, Usilampatti

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

TSG

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