



CrI.O.P(MD)No.3045 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.10.2024**

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.OP(MD). No.3045 of 2023

and

CRL.MP(MD). No.2795 of 2023

M.Sathya

... Petitioner / Accused

Vs.

Karthik and Associates
represented by its Proprietor
N.Karthikeyan

... Respondent /
De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the complaint in S.T.C. No. 225 of 2022 on the file of the Fast Track Judge at Magisterial Level, Thanjavur.

For Petitioner : M/s.Shangar Murali

For Respondent : M/s.J.Shakila



CrI.O.P(MD)No.3045 of 2023

ORDER

WEB COPY

This Criminal Original Petition is filed to call for the records in STC No. 225 of 2022 on the file of the Fast Track Judge at Magisterial Level, Thanjavur and to quash the same.

2. On a perusal of the complaint, it can be seen that the complainant as averred that towards repayment of the liability, the accused had issued 3 cheques, one cheque for a sum or Rs.10,00,000/- and two other cheques for a sum of Rs.5,00,000/- each. The particulars of the cheque numbers and the dates are given. All the three cheques were returned dishonoured and in respect of three cheques, 3 complaints were filed. In respect of the first cheque for a sum of Rs.10,00,000/-, S.T.C. No. 92 of 2022 is filed and the same is pending. In respect of the second cheque bearing a sum of Rs.5,00,000/-, S.T.C. No. 129 of 2022 is filed and the same is pending and in respect of the third cheque another sum of Rs.5,00,000/-, the present S.T.C. No. 225 of 2022 is filed and the same is also pending. The other two STC numbers are mentioned in the complaint filed in this third case. It seems that the petitioner / M.Sathya had filed to quash the applications on similar grounds in respect of all the



Crl.O.P(MD)No.3045 of 2023

three cases. The quash applications filed in Crl.O.P.(MD). No. 15306 of 2022 and Crl.O.P.(MD). No. 12276 of 2022 were dismissed by orders dated 29.02.2024 finding that no grounds for quash is made out and dispensing with the personal appearance of the petitioner, except for the necessary hearings that may be insisted upon by the Trial Court. For ready reference, the entire order which is passed in the connected petitions in Crl.O.P.(MD). No. 15306 and 12276 of 2022 is extracted here under:-

“ in Crl.O.P.(MD). No. 15306 of 2022 dated 29.02.2022:-

This petition has been filed seeking to quash the proceedings in S.T.C.No.129 of 2022 on the file of the Fast Track Judge at Magistrate Level, Thanjavur

2. The case of the prosecution is that the respondent is a Civil Engineer. The husband of the petitioner approached the respondent, to construct the marriage hall in his property at 159/75, 78, North Main Street, Thanjavur. On believing the words of the husband of the petitioner, the respondent invested Rs.41,56,403/- and completed the construction and handed over the possession of the marriage hall to the petitioner and her husband. Thereafter, the husband of the petitioner failed to



repay the said amount of Rs.41,56,403/- and finally, he agreed to repay the same, for which, he issued three cheques bearing No.706527 for the amount of Rs. 10,00,000/- and No.706528 for Rs.5,00,000/- and No. 706529 for Rs.5,00,000/-. When the respondent presented the cheque No.706527 before the Bank, it was returned as insufficient fund. Due to that, the respondent has issued legal notice. Inspite of receiving the said notice, the petitioner did not send any reply. In the mean while, the husband of the petitioner issued a notice dated 25.02.2022 with false averments. When the respondent presented the another cheque No. 706528, dated 04.04.2022 for a sum of Rs.5,00,000/- issued by the petitioner, the same was dishonoured as stopped payment, due to that, the respondent sent legal notice demanding Rs.5,00,000/- within a period of fifteen days, for which, the petitioner sent reply notice dated 23.04.2022 stating false averments. Thereby, the respondent filed a private complaint before the concerned Court under Section 138 of Negotiable Instrument Act r/w. Section 200 of Cr.P.C., and the same was taken on file in S.T.C.No.129 of 2022 by the learned Fast Track Judge at Magisterial Level, Thanjavur. Challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioner



would submit that a false case has been foisted against the petitioner and there is no specific allegation made against the petitioner.

4.The learned counsel for the respondent would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner has to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

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).



6.For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.129 of 2022, pending on the file of the learned learned Fast Track Judge at Magisterial Level, Thanjavur. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7.At this juncture, the learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the Court below. 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.” and

in Crl.O.P.(MD). No. 12276 of 2022 dated 29.02.2024

“This petition has been filed seeking to quash the proceedings in S.T.C.No.92 of 2022 on the file of the Fast Track Judge at Magistrate Level, Thanjavur.



2.The case of the prosecution is that the respondent is a Civil Engineer. The husband of the petitioner approached the respondent, to construct the marriage hall in his property at 159/75, 78, North Main Street, Thanjavur. On beleiving the words of the husband of the petitioner, the respondent invested Rs.41,56,403/- and completed the construction and handed over the possession of the marriage hall to the petitioner and her husband. Thereafter, the husband of the petitioner failed to repay the said amount of Rs.41,56,403/- and finally, he agreed to repay the same, for which, he issued three cheques bearing No.706527 for the amount of Rs. 10,00,000/- and No.706528 for Rs.5,00,000/- and No. 706529 for Rs.5,00,000/-. When the respondent presented the cheque No.706527 before the Bank, it was returned as insufficient fund. Due to that, the respondent has issued legal notice. Inspite of receiving the said notice, the petitioner did not send any reply. In the mean while, the husband of the petitioner issued a notice dated 25.02.2022 with false averments. When the respondent presented the another cheque dated 04.04.2022 for a sum of Rs. 5,00,000/- issued by the petitioner, the same was dishonoured as stopped payment. Hence, the respondent filed a private complaint before the concerned Court



under Section 138 of Negotiable Instrument Act and the same was taken on file in S.T.C.No.92 of 2022 by the learned Fast Track Judge at Magisterial Level, Thanjavur. Challenging the same, the present petition has been filed.

3.The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner and there is no specific allegation made against the petitioner.

4.The learned counsel for the respondent would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner has to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

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).

6.For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.92 of 2022, pending on the file of the learned learned Fast Track Judge at Magisterial Level, Thanjavur. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

7.At this juncture, the learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the Court below. 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



CrI.O.P(MD)No.3045 of 2023

direct his appearance on those days.”

WEB COPY

3. In view thereof, this Criminal Original Petition being filed in respect of the third case, also has to be disposed of on the same terms. Therefore, this criminal original petition shall stand dismissed as no ground is made out for quashing the complaint. However, considering the nature of the case, the presence of the petitioner before the Trial Court is dispensed with except for the necessary hearings that may be insisted upon by the Trial Court.

4. In the result, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

25.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

pal

To

The Fast Track Judge at Magisterial Level,
Thanjavur.

10/12



WEB COPY



CrI.O.P(MD)No.3045 of 2023



WEB COPY



CrI.O.P(MD)No.3045 of 2023

D.BHARATHA CHAKRAVARTHY,J.

pal

Order made in
CRL OP(MD). No.3045 of 2023

25.10.2024