



Crl.O.P.(MD)No.13010 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.13010 of 2022

and

Crl.MP(MD)Nos.8243 & 8244 of 2022

Nandaprabhakaran

... Petitioner/Sole Accused

Vs.

Alagiri

... Respondent/Complainant

PRAYER:- Petition filed under Section 482 of Cr.P.C., to call for the records relating to S.T.C.No.1197 of 2022 on the file of the learned Judicial Magistrate No.II, Ramanathapuram and quash the same as illegal.

For Petitioner : Mr.A.Arputharaj

ORDER

This petition has been filed seeking quashment of proceedings in S.T.C.No.1197 of 2022 on the file of the learned Judicial Magistrate No.II, Ramanathapuram.



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2. The case of the prosecution is that the petitioner and the respondent are the friends. The petitioner borrowed a sum of Rs.4,50,000/- from the respondent as hand loan by giving assurance that the amount would be paid within a month. However, he failed to repay the amount against the promise given by him. Hence, the defacto complainant repeatedly demanded the amount from the petitioner. On repeated demand made by the defact complainant, the petitioner issued a cheque in favour of the defacto complainant. After receiving the cheque, the respondent has presented the same for collection and the said cheque was returned as “Fund Insufficient”. Hence, the respondent sent a legal notice to the petitioner on 22.11.2021 and the said notice was returned as “unclaimed”. Thereby, the respondent made a private complaint before the learned Judicial Magistrate No.I, Ramanathapuram, for the alleged offence punishable under Sections 138 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.582 of 2021 and thereafter, it was transferred to the learned Judicial Magistrate No.II, Ramanathapuram and numbered as S.T.C.No.1197 of 2022 for the alleged offence punishable under Sections 138 of the Negotiable Instrument Act.

3. The learned counsel appearing for the petitioner would submit that the petitioner has filed a petition for quashing the private complaint instituted by



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the respondent / complainant. 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)*

6. For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.1197 of 2022, pending on the file of the learned Judicial Magistrate No.II, Ramanathapuram. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.



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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.

28.02.2024

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

To

The Judicial Magistrate No.II,
Ramanathapuram.



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M.DHANDAPANI, J.

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