



CRL OP(MD)No.14225 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 12.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRL OP(MD)No.14225 of 2021

and

CrI.M.P(MD)Nos.7440 & 7441 of 2021

P.R.Bharathi

... Petitioner/Accused

Vs

S.Balasekar

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to S.T.C.No. 353 of 2017 on the file of the learned Judicial Magistrate No.II (Fast Track Court), Madurai and quash the same.

For Petitioner : Ms.A.Banumathy

For Respondent : Mr.R.Jeyamohan

ORDER

The present Criminal Original Petition is filed by the accused, seeking to quash the private complaint filed under Section 200 Cr.P.C for the offences under Sections 138 and 142 of Negotiable Instruments Act, on the file of the Judicial Magistrate No.II (Fast Track Court), Madurai, in S.T.C.No.353 of 2017.



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2. The brief facts of the case of the respondent / complainant

are as follows:

2.1. The petitioner borrowed a sum of Rs.1,50,000/- from the complainant as hand loan, during August 2015 and promised to repay the principal amount with interest at the rate of 18% per annum and handed over the following cheques after much demand.

S. No	Date	Name of Bank	Cheque No.	Amount Rs.
1.	15.10.2016	Bank of Baroda, East Avanimoola Street, Madurai.	000027	50,000/-
2.	15.11.2016	Bank of Baroda, East Avanimoola Street, Madurai.	000028	50,000/-
3.	03.12.2016	Bank of Baroda, East Avanimoola Street, Madurai.	000029	50,000/-

2.2. When the cheques were presented through the respondent's Banker, viz., State Bank of India, Lady Doak College, Madurai, on 07.12.2016, all the cheques returned for the reason “insufficient funds”. Thereafter, the respondent / complainant issued a statutory notice dated 03.01.2017 to the petitioner, demanding the latter to make good the payment within 15 days from the date of receipt of the notice. Though the petitioner received the notice on 06.01.2017, he neither sent a reply nor come forward to pay the amount. Therefore, the



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respondent / complainant filed a private complaint for the offences punishable under Sections 138 and 142 of Negotiable Instruments Act, before the Judicial Magistrate No.II, Madurai.

3. Ms.A.Banumathy, learned counsel appearing for the Petitioner would contend that though the petitioner informed the respondent / complainant to not deposit the cheques as he did not have sufficient funds in his bank account, the respondent intentionally deposited the cheques through his bankers, on account of which, the cheques got dishonoured. It is also her contention that the respondent did not have sufficient funds to lend a huge amount of Rs.1,50,000/- to the petitioner and therefore, prayed for quashing the private complaint presented by the respondent / complainant.

4. Per contra, Mr.K.Jeyamohan, learned counsel appearing for the respondent / complainant would contend that the petitioner had not denied his signature on the cheques and he had actually issued all the cheques to the respondent contending that the cheques would be honoured on presentation. However, they were dishonoured for the



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reason “insufficient funds”. Though notice was sent to the petitioner / accused on 06.01.2017, he did not send any reply or come forward to pay the amount. He therefore prayed for dismissal of the Petition.

5. The specific contention of the petitioner is that he instructed the respondent to not deposit the cheques through his bankers, as he did not have sufficient funds in his account. However, it is pertinent to point out that when the statutory notice was issued by the respondent, he did not send any reply stating this reason. The contention that the respondent did not have sufficient income to lend huge amount of Rs.1,50,000/-, is a matter for trial. In any event, it is not the case of the present petitioner that the respondent / complainant did not lend a sum of Rs.1,50,000/- to him.

6. In such circumstances, this Petition is dismissed as devoid of merits. Consequently, connected Miscellaneous Petitions are closed.

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

1.The Judicial Magistrate No.II
(Fast Track Court),
Madurai.

2. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA,J.

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