



CRL OP(MD)No.14654 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 12.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRL OP(MD)No.14654 of 2021

and

CrI.M.P(MD)Nos.7742 & 7743 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. 41 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.41 of 2017.



CRL OP(MD)No.14654 of 2021

2. 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.	15.07.2016	Bank of Baroda, East Avanimoola Street, Madurai.	000026	50,000/-
2.	16.08.2016	Bank of Baroda, East Avanimoola Street, Madurai.	000025	50,000/-
3.	09.09.2016	Bank of Baroda, East Avanimoola Street, Madurai.	000024	50,000/-

2.2. When the cheques were presented through the respondent's Banker, viz., State Bank of India, Lady Doak College, Madurai, on 09.09.2016, all the cheques were returned for the reason “insufficient funds”. Thereafter, the respondent / complainant issued a statutory notice dated 07.10.2016 to the petitioner, demanding the latter to make good the payment within 15 days from the receipt of the notice. Though the petitioner received the said notice on 10.10.2016, he neither sent reply nor come forward to pay the amount. Therefore, the



CRL OP(MD)No.14654 of 2021

respondent / complainant filed a private complaint for the offences punishable under Sections 138 and 142 of Negotiable Instruments Act, before 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, 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 reason “insufficient funds”. Though notice was sent to the petitioner /



CRL OP(MD)No.14654 of 2021

accused on 07.10.2016, 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 on 17.06.2016, 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. Subsequently, he did not come forward to make good payment. As regards the contention that the respondent did not have sufficient income to lend huge amount of Rs.1,50,000/-, it 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.

12.02.2024

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

4/6



WEB COPY



CRL OP(MD)No.14654 of 2021

To

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

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



WEB COPY



CRL OP(MD)No.14654 of 2021

R.HEMALATHA,J.

LS

CRL.O.P.(MD)No.14654 of 2021

12.02.2024