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Crl.O.P.(MD)No.15306 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.15306 of 2022

and

Crl.M.P.(MD) No.10040 of 2022

M.Sathya

... Petitioner/Accused

Vs.

M/s.Karthik and Associates,
By its Proprietor
N.Karthikeyan, Age 50 years,
S/o.Natarajan,
No.45, North Rampart,
Thanjavur District.
(West P.S.Limit).

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in S.T.C.No.129 of 2022 on the file of the Fast Track Court at Magistrate Level, Thanjavur, and quash the same.

For petitioner : Mr.Subash Chandra Bose.M

For Respondent : Mrs.J.Shakila



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ORDER

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. In spite 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.



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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



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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.

29.02.2024

Index : Yes/No
Internet : Yes/No
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To

- 1.The learned Fast Track Judge at Magisterial Level,
Thanjavur.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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