



Crl.O.P.(MD)No.12423 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.12423 of 2024

and

Crl.M.P.(MD)Nos.7710 & 7711 of 2024

K.Animuthu

... Petitioner

Vs.

R.Swaminathan

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S., to call for the records pertaining to the complaint in STC.No.151 of 2023 on the file of the learned Judicial Magistrate, Devakottai and quash the same and consequently allow the present criminal original petition.

For Petitioner : Mr.J.Anadkumar

ORDER

The Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to quash the complaint in STC.No.151 of 2023 on the file of the learned Judicial Magistrate, Devakottai.



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2.The case of the respondent is that on 10.02.2023, the petitioner approached the respondent to get loan to meet out his family needs and he obtained a sum of Rs.7,00,000/-, that time for repayment was fixed as one month and the petitioner issued a cheque dated 10.03.2023 in favour of the respondent, that the respondent presented the cheque on 10.03.2023 for collection, but the same was returned with an endorsement that “Insufficient Funds”, that therefore, the respondent issued legal notice dated 14.03.2023 and thereafter, lodged the present complaint.

3.It is seen from the records that on the basis of the complaint lodged by the respondent under Section 200 Cr.P.C., for the offence punishable under Section 138 NI Act against the petitioner, the learned Magistrate has taken cognizance in STC.No.151 of 2023 and the same is pending on the file of the learned Judicial Magistrate, Devakkottai.

4.The main contention of the petitioner is that there is no legally recoverable amount from the petitioner, that the complaint was filed only



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to grab the money from the petitioner and that the complaint does not disclose any offence as mentioned by the respondent. This Court is at loss to understand as to how the above aspect can be taken as ground to quash the complaint.

5.The Hon'ble Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others*** reported in ***1992 SCC (Cri) 426*** has enumerated 7 categories of cases, where the power can be exercised under Section 482 of Code of Criminal Procedure and the same are extracted hereunder:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and



inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of



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the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6.In ***Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others*** reported in ***2019 (18) SCC 191***, the Hon'ble Apex Court has specifically held that exercise of powers under Section



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482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is settled law that the inherent jurisdiction under Section 482 Cr.P.C. is wide but at the same time, the same is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.

7.The Hon'ble Supreme Court in ***Kaptan Singh Vs. The State of Uttar Pradesh and others*** reported in ***2021 (3) Crimes 247*** has stated that, that Court in catena of decisions has observed that the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial and that question is required to be examined keeping in view, the contents of FIR and *prima facie* materials, if any, requiring no proof and at such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and materials relied on.

8.A cursory perusal of the complaint would make it clear that there existed a *prima facie* case to proceed against the petitioner and the



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grounds now raised by the petitioner are all matter for trial and the same cannot be canvassed before this Court.

9.Considering the above and also taking note of the fact that this is not a fit case to quash the complaint in STC.No.151of 2023 pending on the file of the learned Judicial Magistrate, Devakottai against the petitioner, this Court concludes that the petition is devoid of merit and the same is liable to be dismissed.

10.In the result, this Criminal Original Petition stands dismissed.
Consequently, connected Miscellaneous Petitions are closed.

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

To

The Judicial Magistrate, Devakottai



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K.MURALI SHANKAR,J.

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