



Crl.O.P.(MD) No.15420 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.02.2024

CORAM:

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD) No.15420 of 2020

and

Crl.M.P(MD)Nos.7503 and 7504 of 2020

Jiltha Jeffrey

... Petitioner/Accused

Vs.

Neela Narayanan

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in S.T.C.No.647 of 2018 on the file of the Judicial Magistrate (Fast Track) No.II, Nagercoil, Kanyakumari District and quash the same.

For Petitioner : Mr.Issac Mohanlal
Senior Counsel
Assisted by
Mr.K.Ragatheesh Kumar

ORDER

This Criminal Original Petition has been filed seeking to quash the private complaint filed by the respondent under Section 200 Cr.P.C against the petitioner for an offence punishable under Section 138 of Negotiable Instruments Act in S.T.C.No.647 of 2018 before learned Judicial Magistrate No.II, Fast Track Court, Nagercoil, Kanyakumari District.



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2. For the sake of convenience, the parties are referred to as per the ranking in STC No.647 of 2018.

3. The case of the Complainant in a nut shell is as follows:

The accused borrowed a sum of Rs.19,50,000/- for his business purpose and promised to repay the same within a month. After much persuasion, he handed over a cheque to the complainant for a sum of Rs.19,50,000/- drawn on Tamil Nadu Mercantile Bank, Nagercoil Branch, R & L Industries, dated 31.08.2017. When the complainant presented the cheque through his bankers viz., Tamil Nadu Mercantile Bank, Nagercoil Branch, the same was dishonoured on 01.09.2017 for the reason "payment stopped by the drawer". Thereafter, the complainant issued a statutory notice dated 18.09.2017 to the respondent / accused and the respondent after receiving the same sent a reply which according to the complainant contained false allegations. Therefore, the complainant filed a private complaint under Section 200 Cr.P.C against the present petitioner for the offences punishable under Section 138 of Negotiable Instruments Act.



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4. Mr.Issac Mohanlal, learned Senior Counsel, assisted by Mr.K.Ragatheesh Kumar, appearing for the present petitioner would contend that the accused / petitioner lost his cheque bearing No.01338626 and in this regard he had lodged a compliant with the Vadasery Police Station at Nagercoil, Kanyakumari District and the same was registered as C.S.R.No.645/2017 on 18.08.2017. Prior to that, the petitioner issued a paper publication on 02.06.2017 in a Tamil Daily Newspaper, 'Tamil Sudar' with regard to the loss of cheque. Subsequently, an FIR in Crime No.174 of 2018 was registered against the petitioner/accused for an offence punishable under Section 380 IPC and after investigation, a final report was filed in CC.No.53 of 2019 on 14.03.2019 before the Judicial Magistrate, Additional Mahila Court, Nagercoil against the present respondent for the offence punishable under Section 380 IPC. According to him, the case now stands posted for trial.

5. His further contention is that on 05.06.2017 at about 12.30 p.m. when the present petitioner was standing near Parakai Junction, the respondent came over there and abused the present petitioner in filthy language and also threatened her with dire consequences. Based on the complaint given by the present petitioner, FIR in Crime No.234 of 2017 was also registered by the Police on 06.06.2017 and after completing investigation, a final report in



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C.C.No.126 of 2017 was filed before the Judicial Magistrate III, Nagercoil, against the present respondent for the offences punishable under Sections 294(b), 506(ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002. According to him, when the relationship between the petitioner and the respondent became sour, the petitioner could not have handed over the cheque for a sum of Rs.19,50,000/- on 31.08.2017. He therefore prayed for quashing the private complaint filed by the respondent.

6. Though the name of the respondent is printed in the cause list, there is no representation on his behalf.

7. It is seen from the records that the present petitioner had several money transactions with the respondent/complainant. The petitioner in her police complaint had stated that the complainant borrowed a sum of Rs. 3,65,000/- from her and did not repay the same. The respondent on his part had filed a private complaint under Section 200 Cr.P.C against the present petitioner stating that the petitioner handed over a cheque bearing No.01338626 on 31.08.2017 for liquidating the loan amount borrowed by her and the said cheque was dishonoured. The contention of the learned Senior Counsel for the petitioner is that when the relationship between both the parties became sour, it



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is highly improbable for the present petitioner to hand over a cheque on 31.08.2017. Though this argument is attractive, the same cannot be accepted for the simple reason that this Court cannot conduct any roving enquiry to find out as to who is speaking the truth. It is for the Trial Court to ascertain the real facts by taking evidence on both sides. In these circumstances, I do not see any reason to quash the private complaint in S.T.C.No.647 of 2018.

8. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

26.02.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:

The Judicial Magistrate No.II,
Fast Track Court, Nagercoil, Kanyakumari District.



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R. HEMALATHA, J.

Nsr

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