



Crl.O.P.(MD) No.17267 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.17267 of 2021

and

Cr.MP(MD)No.9378 of 2021

Jefferson Pon David

... Petitioner / Accused

Vs.

A.Rajan

... Respondent /complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records relating to the proceedings in S.T.C.No.587 of 2021 on the file of the learned Judicial Magistrate No.II, Kuzhithurai and quash the same as it has no *prima facie* case made against the petitioners.

For Petitioner : Mr.Ananth C.Rajesh

For Respondent : Mr.D.Senthil

ORDER

Seeking to quash the private complaint filed under Section 200 Cr.P.C., against the present petitioner for an offence punishable under Section 138 of Negotiable Instruments Act, this petition is filed.



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2.The case of the respondent/complainant is that on 10.09.2020, the petitioner borrowed a sum of Rs.1,80,000/- from him and issued a post dated cheque bearing No.583009 dated 02.12.2020 drawn on Indian Overseas Bank, Vettoornimadam Branch on the same day itself. When the cheque was deposited by the complainant for collection on 01.03.2021 through his bankers viz., State Bank of India, Marthandam Branch, the same was returned for the reason 'funds insufficient'. Thereafter, the complainant issued a statutory notice to the petitioner on 19.03.2023 calling upon the letter to repay the amount due under the cheque. The said notice was returned 'unclaimed'. According to the complainant, though the accused knew the issuance of notice by him, he did not come forward to make good the payment. Hence, he filed a private complaint under section 200 Cr.P.C., in S.T.C.No.587 of 2021 against the petitioner for an offence under Section 138 of Negotiable Instruments Act.

3.Mr.Ananth C.Rajesh, learned counsel appearing for the petitioner would contend that the statutory notice was not served upon the petitioner and that the complainant is also charging exorbitant rate of interest. According to him, the petitioner is ready to repay a sum of Rs.1 lakh to the respondent. But, the respondent is demanding a sum of Rs.1,45,000/-.



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It is pertinent to point out that the petitioner did not deny his signature on the cheque bearing No.583009 drawn on Indian Overseas Bank, Vettoornimadam Branch. When the signature is admitted, there is a presumption under Section 118 of Negotiable Instruments Act unless the contrary is proved.

4.In the circumstances, the parties can very well approach the trial Court for settlement and there is no good ground to quash the private complaint filed by the respondent.

5.Accordingly, the Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

05.03.2024

Index : Yes/ No
Internet : Yes/No
NCC : Yes / No
dss



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R.HEMALATHA, J.

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