



CrI.O.P.(MD)No.14056 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.14056 of 2024

and

CrI.M.P.(MD)Nos.8697 & 8698 of 2024

V.M.T.B.Kurmar

... Petitioner

Vs.

C.P.Rajesh

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records in STC.No.227 of 2024 on the file learned Judicial Magistrate (Fast Track Court), Thanjavur to quash the same as against the petitioner.

For Petitioner : Mr.V.Karuna

ORDER

This criminal original petition has been filed seeking orders to quash the charge sheet in STC.No.227 of 2024 on the file learned Judicial Magistrate (Fast Track Court), Thanjavur.



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2.The case of the respondent is that the petitioner herein borrowed a sum of Rs.64,00,000/- from the respondent and issued a cheque dated 07.08.2023, that the respondent presented the cheque on 10.08.2023 and the same was returned for the reason “Insufficient Funds”, that the respondent sent a legal notice dated 22.08.2023 and the petitioner refused to receive the same, that again on 26.10.2023 the respondent presented the cheque for collection and the same was returned for the reason “Insufficient Funds” and that the respondent again sent a notice dated 18.11.2023 and lodged the present complaint.

3.It is seen from the records that the respondent filed a complaint under Section 200 Cr.P.C., against the petitioner for the alleged offence under Section 138 NI Act and the learned Magistrate after completing necessary formalities, taken the case on file in STC.No.227 of 2024 and the same is pending on the file of Judicial Magistrate (Fast Track Court), Thanjavur.

4.The learned counsel for the petitioner would further submit that the allegations put-forth by the respondent in the present case are all



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similar in nature that of the allegations in STC.No.59 of 2024, wherein, the respondent alleged that the petitioner's wife approached the respondent for loan of Rs.10,00,000/- on the basis of mortgage, that the petitioner's wife went to the respondent's house on 01.08.2023 and issued cheque for a sum of Rs.5,00,000/-, that the respondent had nowhere whispered about the alleged transaction in the present complaint and that the respondent has not shown any prima facie case to attract the offence under Section 138 NI Act.

5.The above grounds raised/canvassed by the petitioner, by no stretch of imagination, can be considered as reasons/grounds to quash the proceedings and the same are matter for trial. Except the above, the petitioner has not shown any other valid reason or ground to quash the complaint.

6.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:-



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“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



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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 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,



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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.”

7.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 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.

8.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



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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/complaint 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/complaint and materials relied on.

9.A cursory perusal of the final report and the documents filed along with the final report would make it clear that there existed a *prima facie* case to proceed against the petitioner. Therefore, 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 is dismissed. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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K.MURALI SHANKAR,J.

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To
The Judicial Magistrate (Fast Track Court),
Thanjavur.

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