

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.06.2015

DELIVERED ON : 22.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.11391 of 2015
and M.P.Nos.1 and 2 of 2015

A.N.Solai

..Petitioner

Vs

S.R.Manikandan

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and to quash the complaint in C.C.No.141 of 2014 on the file of the Judicial Magistrate No.V, Coimbatore.

For Petitioner Mr.S.Giritharan

ORDER

The petitioner is seeking to quash the prosecution under Section 138 of the Negotiable Instruments Act launched by the respondent in C.C.No.141 of 2015 pending on the file of the Judicial Magistrate No.V, Coimbatore.

2. For the sake of convenience, the parties will be referred to as the complainant and the accused.

3. Heard the learned counsel for the petitioner.

4. It is the case of the complainant that the accused borrowed a sum of Rs.4 lakhs on 28.09.2014 and executed a pronote in favour of the complainant. In discharge of the said liability, the accused gave a cheque on 24.11.2014 for a sum of Rs.4 lakhs, which when presented was dishonoured. The complainant issued a statutory notice under Section 138 of the Negotiable Instruments Act to the accused and since the accused neither replied nor paid the amount within the statutory period, the complainant lodged the present impugned complaint.

5. The learned counsel for the accused submitted that the husband of the accused was having business contacts with one Sai Agencies, in which the complainant was a Manager. It is alleged by the accused that, there was a dispute between Sai Agencies and the husband of the accused, pursuant to which some people had come to the house of the accused and had forcibly taken cheques from the accused and from her husband, in respect of which a police complaint has been launched. The learned counsel also submitted that, there is no legally enforceable debt qua the complaint and that the complainant is acting at the behest of Sai Agencies. The learned counsel took this Court through the statement of accounts of Deiva Agency run by the husband of the accused and also an agreement alleged to have entered into between the husband of the accused and Sai Agencies on 19.03.2014.

6. On a reading of the agreement, there is no reference to Sai Agencies in that. Further, the points that have been raised by the accused are disputed questions of fact, which cannot be looked into under Section 482 Cr.P.C.

In the result, this petition is dismissed with liberty to the petitioner to raise all the issues before the trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms

To

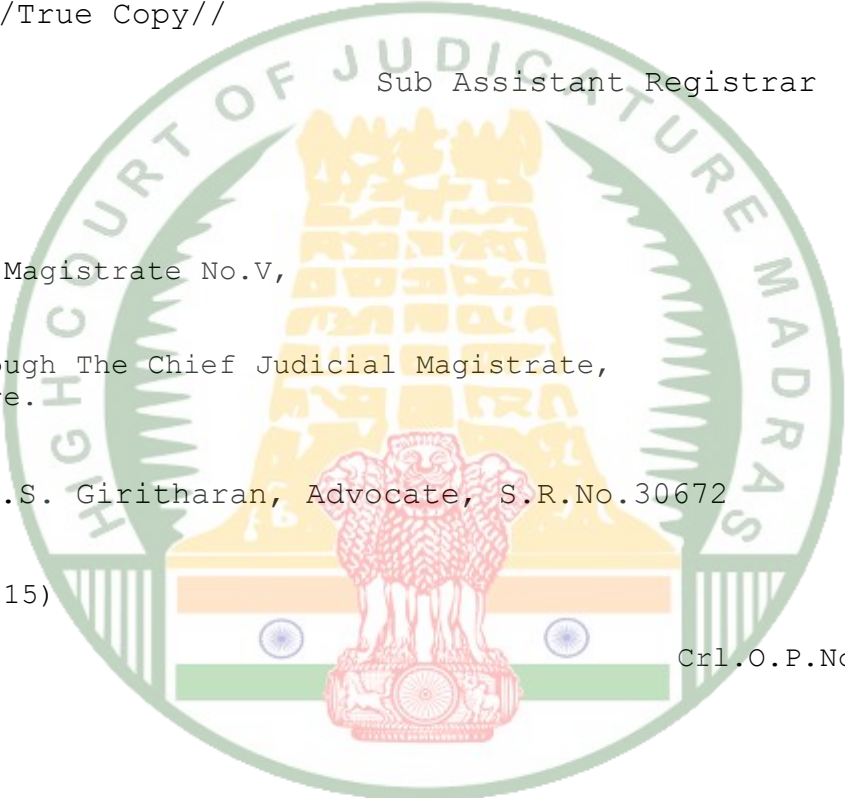
1.Judicial Magistrate No.V,
Coimbatore.

2.-do- Through The Chief Judicial Magistrate,
Coimbatore.

+1cc to Mr.S. Giritharan, Advocate, S.R.No.30672

SKV(CO)
EU(01/07/2015)

CrI.O.P.No.11391 of 2015



सत्यमेव जयते

WEB COPY