

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP.No.14207 of 2015

Neti Kanakaiah Setty ... Petitioner

Vs

Manohar Transport,
Proprietor R.Manohar,
D.No.552, LIG-1,
TNHB Avadi,
Chennai-54.

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the learned Magistrate, Fast Track Court No.I, Egmore, Chennai, to receive the complaint presently numbered as CC.No.106 of 2014 returned by the learned Magistrate of First Class, Cuddapah, without any compliance in terms of proceeding dated 21.05.2015 and proceed further in accordance with law.

For Petitioner :Mr.T.V.Badrinarayanan

ORDER

This petition has been filed to direct the learned Magistrate, Fast Track Court No.I, Egmore, Chennai, to receive the complaint, presently numbered as CC.No.106 of 2014 returned by the learned Magistrate of First Class, Cuddapah, without any compliance in terms of proceeding dated 21.05.2015 and proceed further in accordance with law.

2.Heard the learned counsel for the petitioner and perused the material placed on record.

3.The petitioner filed a complaint for an offence under Section 138 of the Negotiable Instruments Act before the learned I Additional Judicial Magistrate, I Class, Cuddapah, which was taken on file as C.C.No.106 of 2014. During the pendency of the case, the Hon'ble Supreme Court in Dashrath Rupsingh Rathod Vs State of Maharashtra reported in CDJ 2014 SC 647 held that all the pending complaints should be transferred and to be presented before the Court, where the bank of the accused is located, within 30 days from the date of collecting the papers. In this case, the learned I Additional Judicial Magistrate, I Class, Cuddapah, returned the complaint with a direction to the petitioner to submit the same before the jurisdictional Court.

4.It is the grievance of the petitioner that when the petitioner collected the complaint and submitted the same before the learned Magistrate, Fast Track Court No.I, Egmore, Chennai, the same has been returned on the following grounds:

"Complainant represented the case bundle today. On perusal found that no signature and no seal in Sworn Statement. Hence, returned for compliance."

5.The learned counsel for the petitioner produced the docket orders passed by the learned I Additional Judicial Magistrate, I Class, Cuddapah, which reads as follows:

"Heard. Perused the sworn affidavit and other records filed along with the complaint. Prima facie made out against the accused. Hence, the case is taken on file u/s 138 of N.I.Act against accused. Issue summons to accused on payment of process. Call on 16.05.2014."

6.In view of the above, this Court is of the opinion that it is not necessary for the Court to insist upon the petitioner to obtain the seal and signature of the Magistrate in the sworn statement. Hence, the learned Magistrate, Fast Track Court No.I, Egmore, Chennai, is directed to accept the papers without insisting the petitioner/complainant to obtain the signature and seal of the learned I Additional Judicial Magistrate, I Class, Cuddapah, in the Sworn statement. The petitioner is also directed to re-present the papers before the learned Magistrate, Fast Track Court No.I, Egmore, Chennai, within a period of one week from the date of receipt of a copy of this order.

With the above directions, this Criminal Original Petition is closed.

सत्यमेव जयते

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mps

To

- 1.The Magistrate, Fast Track Court No.I, Egmore, Chennai.
- 2.The Magistrate of First Class, Cuddapah.
- 3.The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.R.C. Sivakumar, Advocate Sr.28920

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GJ(CO)

Eu 02.07.156.2015