

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.10.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.23813 of 2015

and

M.P.No.1 of 2015

Shanthi ... Petitioner

Vs

Ragu ... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the proceedings of the complaint in STR No.811 of 2014 on the file of the Judicial Magistrate No.II, Karikkal District and to quash the same.

For Petitioner : Mr.R.Murugabharati

ORDER

This criminal original petition has been filed to call for the records relating to the proceedings of the complaint in STR No.811 of 2014 on the file of the Judicial Magistrate No.II, Karikkal District and to quash the same.

2. Heard the learned counsel for the petitioner.

3. It is seen that the respondent has lodged a complaint against this petitioner for an offence under Section 138 of the Negotiable Instruments Act for dishonor of a cheque. It is further seen that the accused were maintaining joint account and had issued the impugned cheque. When the cheque was dishonoured, the respondent issued an advocate notice dated 17.12.2013 to both the accused.

4. The learned counsel for the petitioner contended that the respondent/complainant had issued notice only to A1 but not to A2. Whereas, in the complaint, in para - 6, it is clearly stated that the notice dated 17.12.2013 was issued to both A1 and A2 and postal Acknowledgment Card in respect of A1

has been filed but the complainant / respondent has stated that the postal Acknowledgment Card in respect of A2 had not been received by his counsel and that, during the trial, he will prove that fact of service of notice of A2. In view of such categorical assertion, this Court cannot go into the disputed question of fact to proceed under Section 482 Cr.P.C.

In the result, the criminal original petition is dismissed with liberty to the petitioner to raise all the points before the trial Court. Consequently, connected miscellaneous petition is closed.

sd/
ASSISTANT REGISTRAR (CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

sms

To

The learned Judicial Magistrate No.II,
Karikkal District.

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CO-RSI
JD 04/11/2015

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