

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.06.2015

CORAM

THE HON'BLE MR.JUSTICE R.S.RAMANATHAN

CRL.O.P.No.26931 of 2010
and M.P.No.1 of 2010

Govindaraj

.. Petitioner

.. Vs ..

K.M.Shree Ekambaram

.. Respondent

Prayer:- Criminal Original Petition filed under section 482 of the Code of Criminal Procedure, praying to call for the records relating to C.C.No.162 of 2010 from the file of the learned Judicial Magistrate, Gudiyatham and quash the same.

For Petitioner : Mr.R.Margabandhu

ORDER

The accused in C.C.No.162 of 2010 on the file of the learned Judicial Magistrate, Gudiyatham, is the petitioner herein.

2. The respondent/complainant filed a complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments Act and this petition is filed to quash the same.

3. It is submitted by the learned counsel for the petitioner that as per the complaint, the lawyer's notice dated 21.07.2010 was sent to the petitioner/accused and it was returned with an endorsement "no such addressee". According to the petitioner, the respondent sent the notice to the incorrect address and hence, notice was returned with an endorsement "no such addressee" and therefore, there was no proper notice and hence, the complaint is liable to be quashed. In this regard, the learned counsel for the petitioner drew my attention to the House Tax receipt and Election Commission Identity Card, which would show that the petitioner is residing at No.85, Ward-1, Kurumpatti, Vijaiapuram (p), Vellore.

4. I am unable to accept the contention of the learned counsel for the petitioner. Whether the petitioner is living in the said address, to which the notice was given or whether the notice was issued to some other address, cannot be considered in the absence of the materials filed by the petitioner.

5. The petitioner filed a copy of the complaint but, he has not filed a copy of the notice issued by the respondent/complainant. It is specifically stated in the complaint that the notice was issued to the petitioner and he gave false information to the Postal department and made the postal department

to return the notice. Hence, I am of the opinion that all these facts have to be gone into only at the time of trial.

6. Therefore, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

7. The learned Judicial Magistrate, Gudiyatham is directed to dispose of the case in C.C.No.162 of 2010 within a period of four months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

cla
To
The Judicial Magistrate No.I,
Gudiyatham.

CRL.O.P.No.26931 of 2010

rsk(co)
pmk.26.6.2015



WEB COPY