

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2015

Coram

THE HONOURABLE MR JUSTICE R.S.RAMANATHAN

CrI.O.P.No.19227 of 2010

and

M.P.No.1 of 2010

Antonysamy

..Petitioner

/vs/

M.Senthilkumar,
M.S.K.Chit Fund,
Athur Private Limited,
Athur Town,
Salem District.

..Respondent

Prayer:

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in STC No.762 of 2007 on the file of the Judicial Magistrate No.1, Attur and to quash the same as illegal.

For Petitioner : Mr.Sarathchandran for
Mr.V.Raghavachari
For Respondent : No Appearance

ORDER

The accused in S.T.C.No.762 of 2007 on the file of the Judicial Magistrate No.1, Attur is the petitioner.

2.It is submitted by the learned counsel appearing for the petitioner that the learned Judicial Magistrate, without taking sworn statement from the respondent/complainant and without applying application of mind, took cognizance of the case and issued of process, which is to be quashed. He has also produced a xerox copy of the certified copy issued by the Court to that effect that sworn statement of the respondent/complainant was not taken and the case was taken up on file.

4.Though the respondent was represented by his counsel, there was no representation for the respondent.

5.Considering the limited scope of the case, I am inclined to dispose of the case, even in the absence of the respondent. As rightly submitted by the learned counsel appearing for the petitioner, it is seen from the records that the learned Judicial

Magistrate, without taking sworn statement of the respondent/complainant, has taken cognizance of the case and issued process, which is against the provisions of law. Hence, this petition is disposed of by directing the learned Judicial Magistrate to take sworn statement of the respondent/complainant and on being satisfied as to whether the case has been made out or not, shall take further steps in issuing process to the accused. The learned Judicial Magistrate is directed to complete the above exercise within a period of four weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is also closed.

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s/d-
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate-I,
Athur.
 2. -do- thro' The Chief Judicial Magistrate,
Salem.
- + 1 cc to Mr.V.Raghavachari, Advocate SR 27613

rsy(co)
prk22/6

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