

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.11919 of 2016 and C.M.P. No.6126 of 2016

C. Ramesh Kumar ..Petitioner/Petitioner

vs.

1 Vasu

2 Hippolista Fernando ..Respondents/Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records in order dated 29.02.2016 in Tr.Crl.M.P. No.2235 of 2015 on the file of the Principal District and Sessions Judge, Coimbatore and set aside the same.

For petitioner Mr. P. Sidharthan

For respondents Mr. C. Lingam

ORDER

This Criminal Original Petition is filed seeking to call for the records in the order dated 29.02.2016 in Tr.Crl.M.P. No.2235 of 2015 on the file of the Principal District and Sessions Judge, Coimbatore and set aside the same.

2 For the sake of convenience, the petitioner and the respondents will be referred to as accused and complainants respectively.

3 The complainants have launched a prosecution in C.C. Nos.205 of 2013, 440 of 2013, 31 of 2013 and 27 of 2011 before the Judicial Magistrate Court No.I (Fast Track Court), Coimbatore for an offence under Section 138 of the Negotiable Instruments Act. While so, the accused has filed a private complaint in C.C. No.276 of 2014 before the Judicial Magistrate Court No.6, Coimbatore, against the complainants alleging that the complainants had misused about 50 cheques belonging to the accused. Hence, the accused filed Transfer Crl.M.P. No.2235 of 2015 before the Principal District and Sessions Judge, Coimbatore, for transferring Section 138 cases from the file of the Judicial Magistrate Court No.I (Fast Track Court), Coimbatore, to the file of the Judicial Magistrate Court No.6, Coimbatore, to be tried along with C.C. No.276 of 2014 before the Judicial Magistrate Court No.6, Coimbatore. The Principal District and Sessions Court,

Coimbatore, has dismissed the Crl.M.P. No.2235 of 2015 on 29.02.2016, aggrieved by which, the accused is before this Court.

4 Heard Mr. P. Sidharthan, learned counsel for the accused and Mr. C. Lingam, learned counsel for the respondents.

5 Mr. P. Sidharthan submitted that it is the specific case of the accused that about 50 cheques belonging to him, were lost on 07.01.2013 in Ukkadam Bus Stand and those cheques are in the hands of the complainants and others who have presented the cheques and have also issued Section 138 notice, but, have not filed any prosecution against the accused. Therefore, he would submit that interest of justice will be subserved, if the 4 cases filed by the complainants under Section 138 of the Negotiable Instruments Act are tagged along with C.C. No.276 of 2014 filed by the accused and decided before the Judicial Magistrate Court No.6, Coimbatore.

6 The above submission of Mr. Sidharthan is strongly contested by the learned counsel for the complainants.

7 It is seen that even according to the accused, he had lost around 50 cheques on 07.01.2013 near Ukkadam Bus Stand and those cheques are not the subject matter of the prosecution under Section 138 of the Negotiable Instruments Act. In fact, the prosecution under Section 138, ibid, had commenced in 2011 itself. The cheques that form the basis for the prosecution in C.C. No.27 of 2011, 31 of 2013, 440 of 2013 and 205 of 2013 are not the subject matter of the private complaint in C.C. No.276 of 2014 pending before the Judicial Magistrate Court No.6, Coimbatore, filed by the accused. That apart, the accused in C.C. No.276 of 2014 have filed Crl.O.P. No.20827 of 2014 to quash the private complaint in C.C. No.276 of 2014 and that quash application is pending on the file of this Court.

8 In view of the above, this Court is of the considered view that this is not a fit case to transfer the four Section 138 cases, as prayed for by the accused, to the file of the Judicial Magistrate Court No.6, Coimbatore, to be tried along with C.C. No.276 of 2014, filed by the accused.

In the result, this Criminal Original Petition is dismissed as being devoid of merits. Connected Crl.M.P. is closed.

Sd/-
Assistant Registrar(V)

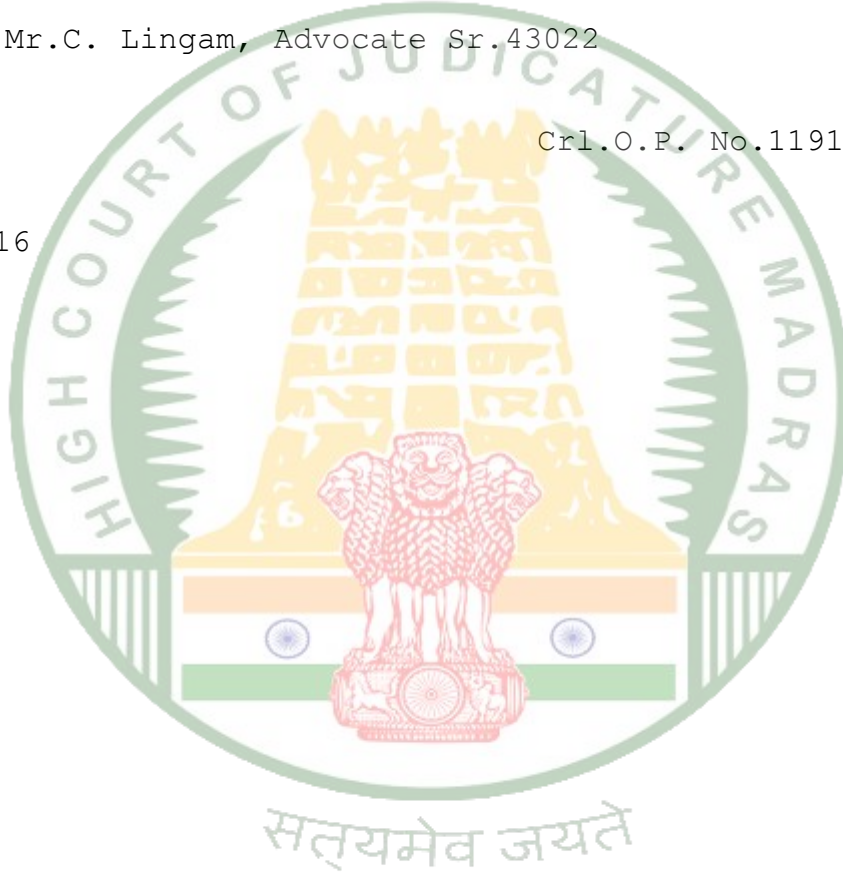
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To

- 1 The Principal District and Sessions Judge
Coimbatore
 - 2 The Judicial Magistrate No.6, Coimbatore.
 3. The Judicial Magistrate NO.I, (Fast Track Court),
Coimbatore.
- + 1 cc to Mr.C. Lingam, Advocate Sr.43022

Crl.O.P. No.11919 of 2016

MSM(CO)
EU 16.08.16



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