

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.12422 of 2016
and
Crl.MP.No.6413 of 2016

Muniappan

...Petitioner

Vs.

M/s.Sri Murugan Dall Mill,
Proprietor Manikandan
No.224/109, Narasiman Road, Shevapet,
Salem-2.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in S.T.C.No.3 of 2016, pending on the file of the Learned Judicial Magistrate No.III, Salem, Salem District and quash the proceedings against the petitioner.

For Petitioner :Mr.M.Easan

O R D E R

This Criminal Original Petition has been filed to call for the records in S.T.C.No.3 of 2016, pending on the file of the Learned Judicial Magistrate No.III, Salem, Salem District and quash the proceedings against the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. It is seen that the petitioner is facing the prosecution in S.T.C.No.3 of 2016 before the learned Judicial Magistrate No.III, Salem, for the offence under Section 138 of the Negotiable Instruments Act.

4. It is the case of the petitioner that he has suffered loss of business and has filed an application for declaring himself as insolvent and therefore, the present prosecution is abuse of process of law.

5. In the considered opinion of this Court, pendency of the insolvency petition cannot absolve the petitioner from his liability under Section 138 of the Negotiable Instruments Act.

6. The learned counsel for the petitioner submitted that the petitioner is ready and willing to amicably settle the dispute with the complainant and prays for referring the matter to the Mediation Centre.

7. This Court is of the view that in the fitness of things, a direction is issued to the learned Judicial Magistrate No.III, Salem, to refer the complainant and the accused to the local Mediation Centre or Local Legal Service Authority for amicable settlement of the dispute between the parties and the settlement proceedings should be completed within one month from the date of reference. The trial should not be prolonged in the guise of settlement talks. If the settlement talks fail, the trial should proceed.

With the above direction, this criminal original petition is disposed of with liberty to the petitioner to raise all the points before the trial Court. Consequently, connected miscellaneous petition is closed.

sms

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.III,
Salem, Salem District.
2. -do- thro' The Chief Judicial Magistrate,
Salem.
3. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.M.Easan, Advocate Sr 33126

KR/1/7/16

CrI.O.P.No.12422 of 2016