

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.17322 of 2016
and Crl.MP No.8296 of 2016

Siva Sankar
Proprietor,
Harithaa Agencies,
No.20, 3rd Street,
Teachers Colony,
Nanjikottai Road,
Thanjavur - 613 006.

.... Petitioner

Vs

Muthu Pipes Pvt. Ltd.,
Rep. by its Director
Dr.P.Sakthivel,
No.3E, Mandira Apartments,
23A, Dr.Narasimha Road,
T.Nagar, Chennai - 600 017. Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to withdraw the complaint in C.C.No.1690 of 2016 from the file of XVII Metropolitan Magistrate, Saidapet, Chennai and transfer the same to the file of the Judicial Magistrate, Thanjavur.

For Petitioner :Mr.A.Saravanan

ORDER

This Criminal Original Petition has been filed to withdraw the complaint in C.C.No.1690 of 2016 on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai and transfer the same to the file of the Judicial Magistrate Court, Thanjavur.

2. Heard Mr.A.Saravanan, learned counsel appearing for the petitioner.

3. For the sake of convenience, the parties will be referred to by their name. M/s.Muthu Pipes Pvt. Ltd., has initiated prosecution in C.C.No.1690 of 2016 against Siva Sankar before the XVII Metropolitan Magistrate Court, Saidapet, Chennai, for the offences under Section 138 of the

Negotiable Instruments Act, to transfer which, Siva Sankar is before this Court, on the ground that the entire business transaction between Siva Sankar and M/s.Muthu Pipes Pvt. Ltd., had taken place at Thanjavur.

4. In the considered opinion of this Court, this cannot be a ground for transfer because, under the amended provisions of the Negotiable Instruments Act, the complaint under Section 138 of the Negotiable Instruments Act can be filed in the Court within whose jurisdiction the Bank of the complainant is situate. In this case, the complainant's Bank is situated within the jurisdiction of the XVII Metropolitan Magistrate Court, Saidapet, Chennai. Hence, there cannot be a transfer of case to Thanjavur as prayed for by Siva Sankar.

5. The learned counsel for Siva Sankar submitted that Siva Sankar is suffering from serious illness and therefore, he finds it difficult to appear before the learned XVII Metropolitan Magistrate, Saidapet, Chennai.

6. Siva Sankar is directed to appear before the XVII Metropolitan Magistrate, Saidapet, Chennai, and on his appearance, the learned Magistrate is directed to release him on bail under Section 436 Cr.P.C. on he execute a bond for Rs.5,000/- with two sureties on the same day, so that he will be entitled to the benefits under Section 389(3) of the Code.

7. After executing the bond as aforesaid, if Siva Sankar satisfies the trial Court about his physical ailment, the trial Court may liberally dispense with his personal appearance on condition that he should give an undertaking that his counsel will appear and file an application under Section 317 Cr.P.C. and cross-examine the witnesses on the day they are examined in chief and that he will not adopt dilatory tactics. Siva Sankar should be present for receiving the charge sheet, questioning, for answering the charge, at the time of questioning under Section 313 Cr.P.C., and on the date of judgment.

With the above direction, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

ds

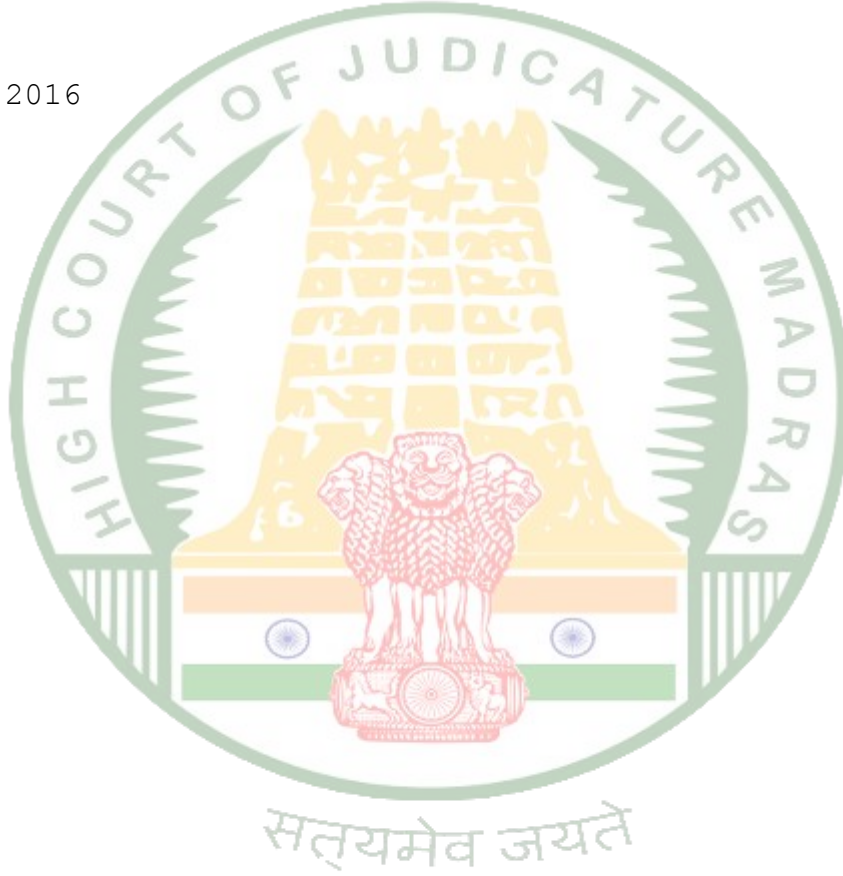
To:

The XVII Metropolitan Magistrate Court,
Saidapet, Chennai.

1 cc to Mr.A.Saravanan, Advocate, sr.45442

Crl.OP.No.17322 of 2016
and Crl.MP No.8296 of 2016

lrs co
kra 29.08.2016



WEB COPY