

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HONOURABLE JUSTICE P.N.PRAKASH

Crl.OP.No.24043 of 2016

and Crl.MP.Nos.11438 & 11439 of 2016

A.Ganesh

.. Petitioner
Vs

K.S.Shanmugasundaram

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 of Criminal Procedure Code praying to call for the records in S.T.C.No.21 of 2016 on the file of the learned Chief Judicial Magistrate, Erode, Erode District and quash the proceedings therein as against the petitioner herein.

For Petitioner : Mr.S.P.Meenakshi Sundaram

ORDER

This Criminal Original Petition has been filed praying to quash the proceedings in S.T.C.No.21 of 2016 on the file of the learned Chief Judicial Magistrate, Erode, Erode District.

2. K.S.Shanmugasundaram has initiated prosecution in S.T.C.No.21 of 2016 before the learned Chief Judicial Magistrate, Erode, Erode District, against Ganesh for an offence under Section 138 of the Negotiable Instruments Act, in a cheque for Rs.1,50,000/- that is said to have been issued by Ganesh in discharge of certain liabilities. Challenging the prosecution, Ganesh is before this Court.

3. Mr.S.P.Meenakshi Sundaram appearing for Ganesh submitted that Ganesh has not borrowed any money from Shanmugasundaram, and that the bank account was closed as early as in the year 2000 itself, but whereas Shanmugasundaram had misused the old cheque that was in his possession and had lodged the present prosecution.

4. In the considered opinion of this Court, these are disputed question of facts which cannot be determined in a proceedings under Section 482 Cr.P.C.

5. With the above observation, this Criminal Original Petition is closed with liberty to the petitioner to raise all the points before the trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1 The Chief Judicial Magistrate, Erode

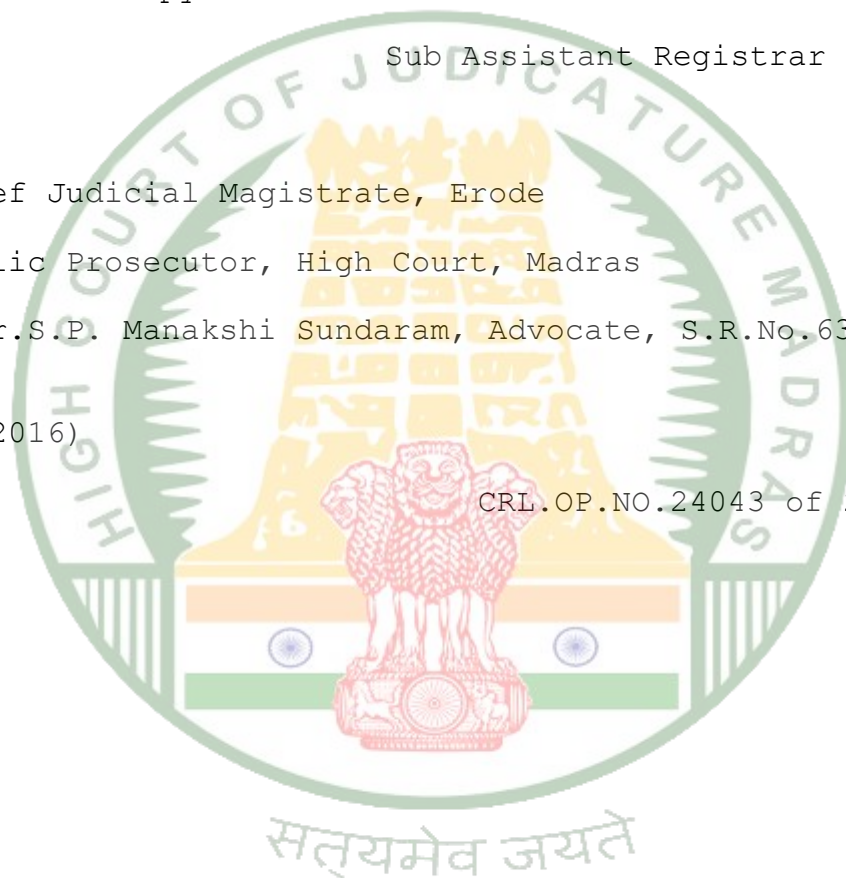
2 The Public Prosecutor, High Court, Madras

+1cc to Mr.S.P. Manakshi Sundaram, Advocate, S.R.No.63142

SS (CO)

md(30/12/2016)

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