



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Cr1.O.P.(MD) No.19650 of 2016

and

CMP(MD)Nos.9918 and 9919 of 2016

Satheesh Babu
Tiruvanandapuram-695 025

: Petitioner/Sole Accused

-Vs-

G.Johnsly Moses
Through his Authorised Representative
Ex.Maria Anto Jegan

: Respondent/Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the Charge Sheet in C.C.No.326 of 2013 on the file of the Judicial Magistrate, (Fast Track Court) No.1, Nagercoil and quash the same as illegal in respect of the petitioner and pass such further orders.

For Petitioner

: Mr.T.Vadivelan

O R D E R

This petition is filed to quash the charge sheet filed in C.C.No.326 of 2013 on the file of the Judicial Magistrate (Fast Track Court) No.1, Nagercoil and quash the same.

2.The case of the complainant/respondent herein is that on 20.04.2013, the accused borrowed Rs. 3,50,000/- from the respondent/complainant and in order to discharge the liability, he issued a cheque bearing No.048725 for Rs.3,50,000/- and it was presented and got dishonoured for the reason of insufficient fund. The complainant issued a statutory notice, dated 23.04.2013 under Section 138 of the Negotiable Instruments Act. Although, the petitioner received the notice on 25.04.2013, he has not responded, nor paid any amount, so, he should be prosecuted for the commission of the offence under Section 138 of the Negotiable Instruments Act.

3.The learned counsel for the petitioner would further submit that the petitioner is a contractor and the respondent was supplying materials to the petitioner. Suppressing the said fact, he lodged the complaint by using the cheque given for security purpose. The learned counsel would further submit that the



petitioner is suffering from kidney problem and he is taking treatment in Amirta Institute of Medical Sciences and Research Centre, Kochi and he will not dispute the identity of the witnesses and he is ready to appear before the trial court, whenever his presence is required.

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4. Heard the submission made by the learned counsel appearing for the petitioner and perused the materials available on record.

5. Since, there are prima facie materials against the petitioner, this court is not inclined to quash the charge sheet in C.C.No.326 of 2013. Hence, this petition is dismissed. However, considering the facts of this case, the personal appearance of the petitioner before the trial court is dispensed with and he is directed to appear before the trial court, whenever his presence is required. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CRL)

/True Copy/

Sub Assistant Registrar

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TO

1 The Judicial Magistrate No.1,
Fast Track Court, Nagercoil.

2 Do Through The Chief Judicial Magistrate,
Kanyakumari

+1cc to Mr.T.Vadivelan, Advocate Sr.No. 61588

JAM/10.11.16/SS 2/ 2p-4c

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