



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

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Criminal Original Petition (MD) No.4507 of 2016 &
Crl.M.P.(MD).No.2235 of 2016

K.Velyutham

...Petitioner/Accused

vs.

S.Abdul Azees

...Respondent/Complainant

PRAYER: This petition is filed under Section 482 Cr.P.C to set aside the order passed by the Judicial Magistrate, Periyakulam in S.T.C.No.97 of 2015, dated 19.02.2016.

For Petitioner : Mr.S.Balaji

O R D E R

It is seen that this petitioner is facing prosecution in S.T.C.No.97 of 2015, before the learned Judicial Magistrate, Periyakulam, and when the accused present before the Court below in the first hearing, learned Judicial Magistrate, Periyakulam, passed the following order:-

"Complainant Accused present. Copies furnished u/s 204 (3) Cr.P.C. for questioning. Further, accused in directed to excuse a bond for sureties of Rs.5,000/- neither two sureties for his further appearance u/s 88 Cr.P.C. K.Mariappan, Judicial Magistrate, Periyakulam."

Challenging the above said order, the petitioner is before this Court.

2. This Court has time and again directed the Magistrate dealing with prosecution under Section 138 Negotiable Instruments Act, to obtain a bond under Section 88 Cr.P.C. whenever, the accused appears on the first hearing (Indian Bank Association v. Union of India, reported in 2014 (5) SCC 590). Therefore, the learned Magistrate has implicitly followed the guidelines issued in the above judgment. There is no infirmity in the order of the Magistrate.

3. Mr.S.Balaji, learned counsel for the petitioner submits that the petitioner is from Coimbatore and therefore, it is very difficult for him to furnish two sureties. I am unable to persuade myself to agree with the submissions, since the learned Magistrate has not stated that the two sureties should be local sureties. The learned Magistrate has only directed the petitioner to give a bond only for a sum of Rs.5,000/- and two sureties can be brought by the petitioner from Coimbatore. There is no merit in the petition and hence the order passed by the Trial Court is confirmed and the criminal original petition is dismissed. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)



To
The Judicial Magistrate, Periyakulam.

+lcc to Mr.S.Balaji, Advocate in SR.14785

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