



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP(MD) No.4630 of 2016

and

Crl.M.P. (MD) Nos.2316 and 2317 of 2016

R.Selvaraj

..Petitioner/Accused

Vs

Karthigai Priya

represented by her Agent

R.Eswaramoorthy

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records pertaining to the case in S.T.C.No.647 of 2014 on the file of the Fast Track Court No.II, (Magisterial Level), Madurai and quash the same.

For Petitioner

:Mr.S.Balaji

O R D E R

This petition has been filed to to call for the records pertaining to the case in S.T.C.No.647 of 2014 on the file of the Fast Track Court No.II, (Magisterial Level), Madurai and quash the same.

2. Heard the learned Counsel appearing for the petitioner.

3. On a reading of the complaint, it is seen that the petitioner's wife Uma Sitheeswari and Karthigai Priya were running a Beauty Parlor and they had some difference of opinion. During the settlement of accounts, it is alleged that this petitioner had given cheques to the complainant for discharge of certain liabilities, which when presented were dishonoured. After issuance of statutory notice, the complainant has lodged a present complaint under Section 138 of Negotiable Instruments Act in S.T.C.No.647 of 2014 before the learned Judicial Magistrate, Fast Track Court No.II, Madurai, challenging which the petitioner has come before this Court.

4. The learned Counsel appearing for the petitioner submitted that the petitioner had settled some amounts with the complainant and some cheques were also missing, which has been misused by the complainant.

5. In **Krishnamoorthy Vs. Chellammal** reported in **2015(4) SCALE 371** the Honourable Supreme Court has held that in matters relating to under Section 138 of Negotiable Instruments Act, this



Court shall not adjudicate upon the disputed questions of facts, while dealing with the petition under Section 482 Cr.P.C. Under such circumstances when there is *prima facie* material to proceed the trial, this Court does not find any merits in this petition. Accordingly, this Criminal Original Petition is dismissed with liberty to raise all the points before the trial Court. Consequently, the connected Miscellaneous Petitions are also dismissed.

6. As regards the request for dispense with the presence of the petitioner before the Trial Court, this Court directs the petitioner to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioner file an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the petitioner adopt any dilatory tactics, it is open to the Trial Court to insist upon his presence.

7. The trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order. The petitioner is directed to furnish a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court No.II, Madurai, under Section 88 Cr.P.C. as per the decision of the Honourable Supreme Court in **Indian Bank Association Vs. Union of India** reported in **2014(5) SCC 590**, within a period of two weeks from the date of receipt of a copy of this order.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To
The Fast Track Court No.II, (Magisterial Level),
Madurai.

CN/SKN-SK/AR1/30.03.2016/2P-2C

Cr1.OP(MD) No.4630 of 2016
and
Cr1.M.P.(MD) Nos.2316 and 2317 of 2016