

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21 .07.2017

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

RESERVED ON :13.07.2017

PRONOUNCED ON :21..07.2017

**CRL.RC. No.1254 of 2011
and
M.P.No.1 of 2011**

Chandrasekaran

.. Petitioner

..Vs..

K.Mahalingam

.. Respondent

Prayer:- Criminal Revision Petition filed under Section 397 and 401 Cr.P.C., against the order made in Tr.Crl.M.P.No.20 of 2011 on the file of the Chief Judicial Magistrate at Erode dated 4.5.2011.

For Petitioner :Mr.V.Ayyadurai
For Respondent :Mr.S.Selvathirumurugan

ORDER

This Criminal Revision Petition is filed under Section 397 read with Section 401 of Cr.P.C, against the order dated 4.5.2011 made in

<http://www.judis.nic.in> Tr.Crl.M.P.No.20 of 2011 on the file of the Chief Judicial Magistrate, Erode.

2. The complainant under Section 138 of Negotiable Instrument Act is the Revision Petitioner herein. The complainant instituted STC.No.287 of 2010 before the Chief Judicial Magistrate No.I, Erode, against the respondent herein, alleging that he had borrowed Rs.5,00,000/- on 06.11.2009 from the respondent and issued a cheque on 03.12.2009 and the cheque had bounced and hence, he has filed the S.T.C.No.287 of 2010 before the learned Chief Judicial Magistrate No.I, Erode.

3. Pending consideration, the respondent/accused-Mahalingam filed application in Tr.C.M.P.No.20 of 2011 before the Chief Judicial Magistrate, Erode for transfer of S.T.C.No.287 of 2010 to be tried along with C.C.Nos.304 of 2009, 27/2010,28/2010,29/2010 and 58/2010 to the file of Judicial Magistrate, Dharapuram, on the ground that Makeshkumar and Rangaraj of Dharapuram who are engaged in finance business. When the petitioner was running a shop in Dharapuram he borrowed some loans from Rangaraj and Makeshkumar on the security of many blank cheques. Since Rangaraj and Makeshkumar attempted to grab his shop, the petitioner herein stoutly resisted the attempt. Therefore they arranged to file five criminal cases on the basis of blank cheques issued by the petitioner in Dharapuram Judicial Magistrate Court in the name of their stooges. The respondent has taken up the same defense viz the complainant in all cases are stooges of Rangaraj and

Makesh Kumar and at no point of time, he has borrowed any amount from the complainant under the C.C. and documentary evidence i.e., going to be adduced by the respondent herein are one and the same and hence, sought for transfer of the case.

4. After hearing, both the parties by an order dated 04.05.2011, the Chief Judicial Magistrate, Erode, passed an order for transfer of S.T.C.No.289 of 2010, to the file of Chief Judicial Magistrate, Tharapuram, hence, this Criminal Revision Petition.

5. Heard both sides.

6. The learned counsel for the petitioner has submitted that contrary to the Principles enshrined in Section 408 of Cr.P.C, the order of transfer has been ordered by the Chief Judicial Magistrate, Erode and the trial Court has failed to see that the dishonoured cheque cases are governed by the statutory provisions under the Negotiable Instruments Act.

7. After going through the complaint and the affidavit filed in support of the transfer order before the trial Court and the reasoning given by the trial Court that the cheque issued by the respondent herein is drawn on the Central Bank, Tharapuram and five cases have been instituted against the same person are also pending before the Judicial Magistrate, Tharapuram,

and it is a specific case of the respondent before the trial Court that he never knew the complainant and also the specific allegation that he had dealings only with Rangarajan and Makesh Kumar of Tharapuram and the present complainant is only a stooges of a said person and defense in all the cases are going to be one and the same, the Chief Judicial Magistrate, Erode has rightly come to the conclusion that if the same Magistrate enquires the matter, the same will ensure fair trial and accordingly, ordered for transfer and the said well considered judgment of the trial Court cannot be interfered without any valid reason. It is also to be noted that cheque was issued from the Canara Bank of Tharapuram, the said Magistrate court is also having a territorial jurisdiction.

8. Considering the facts and circumstances of the case and also the specific stand of the respondent that the defense in all the cases are one and the same, the order of the trial Court is well merited and well considered and does not warrant any interference by this Court and accordingly, this Criminal Revision Petition is devoid of merits is liable to be dismissed and accordingly, the same is dismissed. Since the STC is of the year 2010, the Judicial Magistrate No.I, Erode, is required to transfer the entire case bundles within a period of two weeks from the date of receipt of a copy of this order, if it is not already transferred and on such despatch and received by the Judicial Magistrate, Tharapuram, he shall take on his file and assign the new number and directed to dispose of the case in accordance with law, as expeditiously

as possible within a period of four months from the date of receipt of a case bundles.

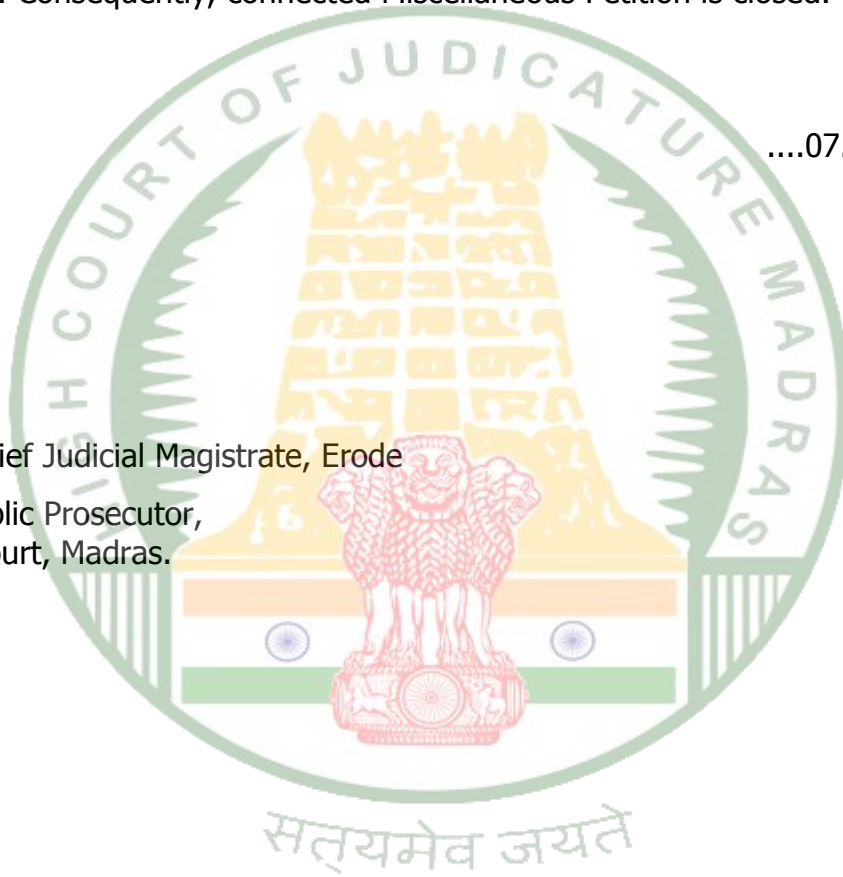
9. With these observations, this Criminal Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

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To

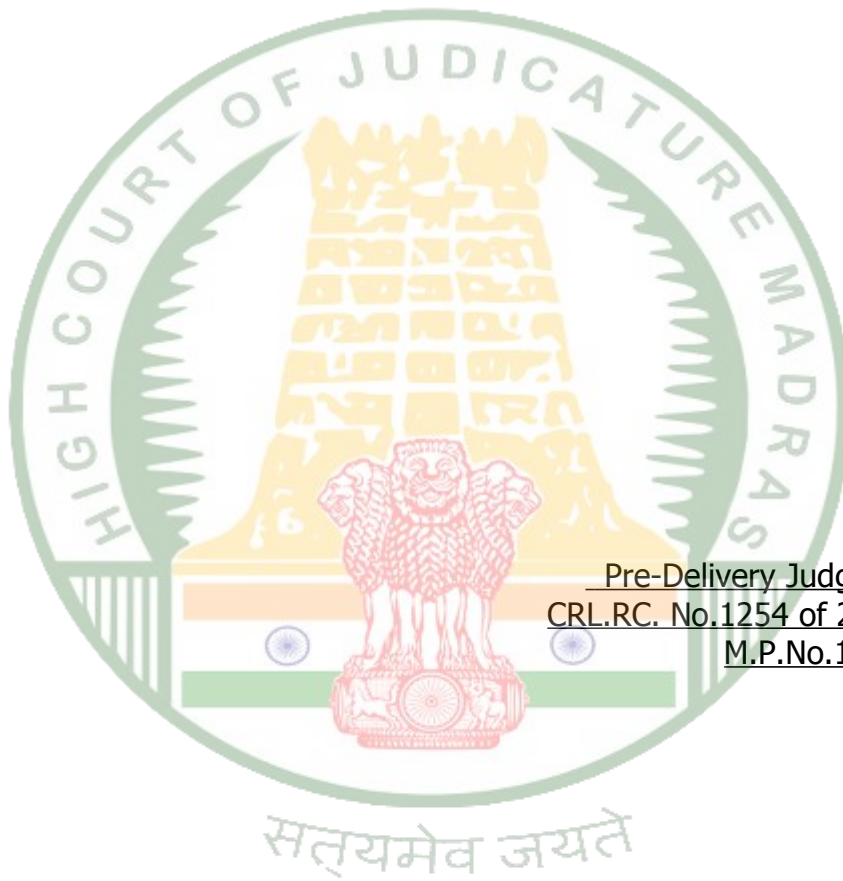
- 1.The Chief Judicial Magistrate, Erode
- 2.The Public Prosecutor,
High Court, Madras.



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RMT.TEEKAA RAMAN,J.,

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Pre-Delivery Judgment in
CRL.RC. No.1254 of 2011 and
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