

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE C.T.SELVAM

CRL.O.P.No.1232 of 2014
and
M.P.No.1 of 2014

K. Gopinath

.. Petitioner

Vs.

T.Gunasekaran

.. Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to dispense with the personal attendance of the petitioner/accused before the learned Judicial Magistrate, Kallakurichi in STC.No.39 of 2013 pending disposal of the quash petition.

For Petitioner : Mr.Y.Arul Manickam

For Respondent : Mr.P. Muthukrishnan

ORDER

This petition has been filed under Section 482 Criminal Procedure Code, seeking a direction to dispense with the personal attendance of the petitioner/accused before the learned Judicial Magistrate, Kallakurichi in STC.No.39 of 2013.

2. Heard the learned counsel for petitioner and also the learned counsel for respondent.

3. Case in STC.No.39 of 2013 on the file of the learned Judicial Magistrate, Kallakurichi, is an action for offence under Section 138 (c) of the Negotiable Instruments Act. The first accused is the Company and the second accused is the Director thereof and is the signatory of the cheque giving rise to the cause of action.

4.The petitioner has been arrayed as fifth accused in his capacity as the Director of the first accused Company.

5. A perusal of the complaint reveals that the basic necessary allegation of the petitioner being in-charge of the

first accused Company and responsible to it for the conduct of its affairs has not been made. While so, petitioner cannot be prosecuted for the offence under Section 138 of Negotiable Instruments Act. Accordingly, Case in STC.No.39 of 2013 on the file of the learned Judicial Magistrate, Kallakurichi, shall stand quashed in so far as the petitioner is concerned.

6. Considering that the case is of the year 2013, the trial court is directed to dispose of the case as expeditiously as possible and in any event, not later than four months from the date of receipt of this order.

In the result, the Criminal Original Petition is allowed. Consequently, miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Gv

To

The learned Judicial Magistrate,
Kallakurichi .

+1cc to Mr.Y.Arul Manikam, Advocate, S.R.No.23142

+1cc to Mr.Y.Arul Manikam, Advocate, S.R.No.23142 (21/06/2017)

CRL.O.P.No.1232 of 2014

and

M.P.No.1 of 2014

RS (15/06/2017)

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