

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE M.SUNDAR

Cr1.O.P.No.8886 of 2011

and

M.P.Nos.1 and 2 of 2011

K.Y.Sundaram,  
S/o.M.L.Krishnamoorthy

.. Petitioner

Vs.

P.Sivakumar,  
S/o.L.Ponnambalam

.. Respondent

Prayer : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the private complaint in C.C.No.124 of 2010 from the file of Judicial Magistrate No.IV, Thirupathur, Vellore district and quash the same.

For Petitioner : No Appearance

For Respondent : Mr.T.R.Ravi

O R D E R

This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code.

2. This Petition has been filed with a prayer to quash the criminal complaint being C.C.No.124 of 2010 on the file of Judicial Magistrate-IV at Thirupathur , Vellore District.

3. The complaint is inter alia under Section 138 of the Negotiable Instruments Act. The petitioner before this Court is the lone accused before the trial Court. The only plea that has been raised is that the complaint is time barred. The petitioner/accused would state that the statutory notice issued on 13.08.2010 was received by him on 14.08.2010 and therefore,

the complaint, not having been filed on or before the 28.10.2010, is time bared. The Learned counsel for the respondent, who is the complainant before the trial court would submit that he issued one statutory notice in two modes. One is under certificate of posting and the other is by registered post with acknowledgment due.

4. The Learned counsel for the respondent would submit that he will not get any acknowledgment for notice sent under certificate of posting . This is understandable and acceptable. The learned counsel for the respondent would submit that the same notice sent by registered post with acknowledgment due was received by the lone accused on 13.09.2010 and he received the acknowledgment card on 04.10.2010. Ultimately the complaint was filed on 25.10.2010. On this ground, the learned Counsel for the respondent, would submit that his complaint is not time barred and not liable to be quashed.

5. On the face of it, this is acceptable. This court does not find any reason to interfere much less quash the complaint exercising jurisdiction under Section 482 of the Code of Criminal Procedure. All matters are left open for the trial court to go into.

6. This matter was listed before this Court on 10.03.2017 and there was no representation for the petitioner. Therefore, the matter was posted under the caption "for dismissal" today (i.e. 13.03.2017). Today also there is no representation for the petitioner. Therefore, this Court has undertaken the exercise of examining the petition on merits and passing an order on merits.

7. Owing to all that have been stated supra, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vsm

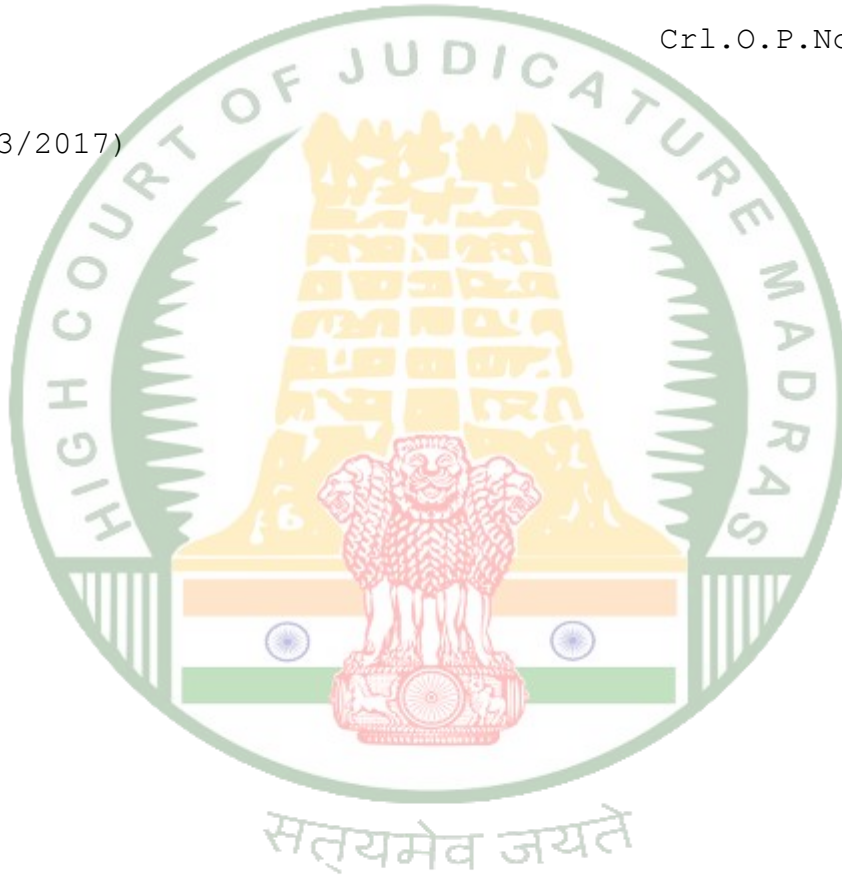
To

The Judicial Magistrate No.IV,  
Thirupathur, Vellore district

+1 CC to Mr.T.R.Ravi, Advocate Sr.No.15650

CrI.O.P.No. 8886 of 2011

RR(CO)  
KP(23/03/2017)



WEB COPY