



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.05.2017

CORAM

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

CRL OP (MD) No.16135 of 2015

R.Duraiyan

... Petitioner/Accused

-vs-

Abushakman

... Respondent

Prayer: Petition is filed under Section 407 of the Criminal Procedure Code praying to withdraw and transfer the case in STC No.1114 of 2015, pending on the file of the Judicial Magistrate No.1, Sankari to any of the competent court, at Dindigul District, preferably Judicial Magistrate No.1, Dindigul District to try the same.

For Petitioner : Mr.N.Sathish Babu
For Respondent : Mr.S.C.Herold Singh

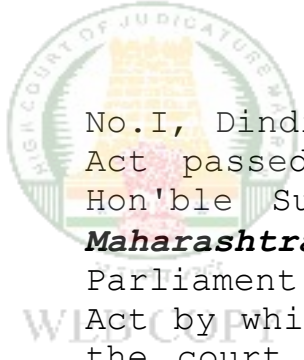
O R D E R

For the sake of convince, the parties should be referred to as complainant and accused.

2. The Complainant has initiated the proceedings in STC No.1114 of 2015 before the Judicial Magistrate No.1, Sankari, Salem District against the accused for an offence under Section 138 of Negotiable Instruments Act.

3. It is the case of the complainant that the accused is a family friend and had obtained loan of Rs.10,00,000/- from the complainant, in discharge of which, the accused gave a cheque for Rs.10,00,000/-, dated 19.03.2015 drawn on State Bank of India, Sankari Branch. The complainant presented the cheque in his account maintained by him in IDBI Bank, Dindigul and the same was dishonored on the ground of insufficiency of funds. After issuing the statutory notice, this complaint has been filed before the Judicial Magistrate No.1, Sankari.

4. The accused is now before this court for transferring a case from Judicial Magistrate No.I, Sankari to Judicial Magistrate



No.I, Dindigul, in view of amendment to the Negotiable Instruments Act passed by the Parliament. Pursuant to the Judgment of the Hon'ble Supreme Court in **Dasrath Rupsingh Rathod v. State of Maharashtra and others** reported in **JT 2014 (9) SC 1981**. The Parliament made amendment to Section 138 of Negotiable Instruments Act by which, the prosecution under said act can be maintained in the court, within whose jurisdiction the bank of the complainant is. In this case, the bank of the complainant is in Dindigul and not in Sankari. Therefore, this court directs the Judicial Magistrate No.1, Sankari to transfer STC No.1114 of 2015 to Judicial Magistrate No.III, Dindigul. The records shall be sent within a period of two weeks from the date of receipt a copy of this order. The accused should be bound over by the Judicial Magistrate No.1, Sankari to appear before the Judicial Magistrate No.III, Dindigul. The accused shall appear before the Judicial Magistrate No.III, Dindigul on 26.06.2017 and furnish a bond under Section 88 of Cr.P.C., for Rs.5000/- (Rupees Five Thousand Only) without sureties. If the accused fails to appear, the Judicial Magistrate No.III, Dindigul shall issue a Non-Bailable Warrant for securing his presence.

5. With the above direction this petition is ordered.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. Judicial Magistrate No.1,
Sakari, Salem District.

2. The Chief Judicial Magistrate, Salem.

3. Judicial Magistrate No.3,
Dindigul District.

4.The Chief Judicial Magistrate,
Dindigul.

+1cc to M/s.N.SATHISH BABU Advocate in SR. NO.55966
AM/CP
JS/SV.MMS/SAR.4/2P-6C

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