



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2014

CORAM:

THE HONOURABLE Mr.JUSTICE G.M.AKBAR ALI

CrI.O.P. (MD)No.2999 of 2014

and

M.P. (MD)Nos.1 and 2 of 2014

1.V.Maichel Raj

2.M.Salethmary

... Petitioners

Vs.

S.Bharathi

... Respondent

PRAYER: Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records from the lower court to quash all the further proceedings in C.C.No.2 of 2014 on the file Judicial Magistrate No.I, Madurai.

For Petitioners : Mr.T.K.Gopalan

For Respondent : Mr.P.E.Pandiarajan

O R D E R

Heard the learned counsel for the petitioners and the learned counsel for the respondent.

2.The Criminal Original Petition has been filed to quash the proceedings in C.C.No.2 of 2014 on the file of the Judicial Magistrate No.I, Madurai.

3.The learned counsel for the petitioners would submit that the first petitioner has already initiated proceedings under Section 138 of Negotiable Instruments Act and the same is under trial. He would further submit that after examination of the de facto complaint/respondent, the petitioner gave a complaint before the Police, which has been closed as mistake of fact and thereafter, he has filed the present application. The learned counsel submitted that the present complaint is only to humiliate and counter blast. Therefore, the proceedings cannot be allowed to continue. The learned counsel further pointed out that without any averments or allegations, the 2nd petitioner, who is the wife of the first petitioner is also roped into this case.

4.The learned counsel for the respondent would submit that on a complaint given by the respondent recovery was made and cheques were recovered and only thereafter, the present complaint has been filed and since a prima facie case was made out, the learned Judicial Magistrate has taken cognisance of the offence and hence, this Court cannot conduct roving enquiry under Section 482 of Cr.P.C.

5.Heard the learned counsel for the petitioners and the learned counsel for the respondent.



6.As far as the 2nd petitioner is concerned as rightly pointed out by the learned counsel for the petitioners, there is no materials to show that she has committed any offence. According to the petitioner both the husband and wife are only doing money lending business. Therefore, at the outset this Court is inclined to quash the proceedings in respect of the 2nd petitioner is concerned.

7.As far as the first petitioner is concerned, there is a case already pending in STC No.197 of 2012 before the Fast Track Court No.II, Madurai. Therefore, the first petitioner is entitled to all the defences and it is only for the respondent to prove the alleged offence against the petitioners. Therefore, it would more appropriate that the same court may take up both the matter and decide the issue in accordance with law.

8.The proceedings against the 2nd petitioner in C.C.No.2 of 2014 is hereby quashed and the Criminal Original Petition is partly allowed. However, the said C.C.No.2 of 2014 against the first petitioner is withdrawn and the same is directed to transfer from Judicial Magistrate No.I, Madurai to Fast Track Court No.II, Madurai and the same may be tried along with STC No.197 of 2012. The Fast Track Court No.II, Madurai is directed to commence the trial in C.C.No.2 of 2014 and combined the same along with STC No.197 of 2012 and he is at liberty to pronounce judgment in both the cases jointly. The learned Judicial Magistrate No.I, Madurai is directed to transfer the records within a period of 3 weeks from the date of receipt of a copy of this order and on receipt of the same, the Fast Track Court No.II, Madurai is directed to expedite the trial within a period of 3 months thereafter. Consequently, connected M.Ps.are closed.

sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

- 1.The Fast Track Court, No.II, Madurai.
- 2.The Judicial Magistrate NO.I Madurai.
- 3.Do thro the Chief Judicial Magistrate Madurai.

+1cc to Mr. Dhana Law Associates, in Sr NO.22661

Crl.O.P. (MD)No.2999 of 2014
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