



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Crl.O.P. (MD) .No.10077 of 2017

and

Crl.M.P. (MD) .Nos.6884 and 6885 of 2017

Mony

.. Petitioner/Accused

Vs.

Packianathan

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in C.C.No.239 of 2013, on the file of the Judicial Magistrate Court No.I, FTC, Nagercoil.

For Petitioner : Mr.N.S.Rama Krishnadass

ORDER

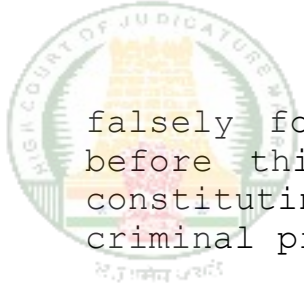
This petition is filed seeking to quash the proceedings in C.C.No.239 of 2013, on the file of the Judicial Magistrate No.I, Fast Track Court, Nagercoil.

2.Heard the learned counsel for the petitioner and perused the records.

3. Based on the complaint of the respondent, a case has been registered against the petitioner in Crime No.239 of 2013, for the offence under Section 138 of Negotiable Instruments Act, on the file of the learned Judicial Magistrate No.I, Fast Track Court, Nagercoil.

4. Mr.N.S.Rama Krishnadass, learned counsel for the petitioner would submit that the petitioner handed over a cheque to the respondent to develop the business of the respondent for security purpose and later the respondent has misused the cheque. He further submitted that the petitioner has been falsely roped in this case. Since the complaint is motivated, it is liable to be quashed.

5. This Court has held in several cases that quashing of criminal case is not automatic. As per the guidelines of the Hon'ble Supreme Court in Bhajanlal case, on several occasions, this Court has held that unless the criminal proceedings is an abuse of process of law, this Court will not interfere with the proceedings pending in the trial Court. This is not a case whether the criminal proceedings has been initiated with malafide or



falsely for wrecking vengeance without cause. There is nothing before this Court to show that there is no prima facie case constituting the offence under Section 138 of NI Act, nor the criminal proceedings is an abuse of process of law.

6. In such circumstances, this Court is not inclined to quash the proceedings in C.C.No.239 of 2013 on the file of the Judicial Magistrate No.I, Fast Track Court, Nagercoil. In the result, this Criminal Original Petition is dismissed. Consequently, connected M.P.(MD).No.6885 of 2017 is also dismissed. However, the personal appearance of the petitioner in C.C.No.239 of 2013, on the file of the Judicial Magistrate No.I, Fast Track Court, Nagercoil, is dispensed with and he is directed to appear before the trial court, when his presence is required by the trial Court.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Fast Track Court, Nagercoil.
2. -Do- Thro Chief Judicial Magistrate,
Kanyakumari.

+1cc to Mr.N.S.Rama Krishnadass, Advocate Sr.No.69879

PJL

VB/JC/SAR1/09/08/2017/2P/4C

Cr1.O.P(MD)No.10077 of 2017
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