



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P. (MD) No.9035 of 2017

M.Mahendran

...Petitioner/Petitioner

-Vs-

Vimala

...Respondent/Respondent

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records of the order in Cr.M.P.No.3868 of 2016 in S.T.C.No.346 of 2016, dated 22.10.2016 on the file of the learned Judicial Magistrate No.II, FTC, Madurai and to set aside the same.

For Petitioner : Mr.A.Hajamohideen

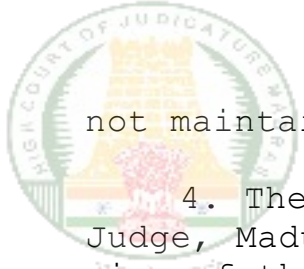
For Respondent : Mr.K.Anbarasan
Government Advocate(Crl.Side)

O R D E R

This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to direct the respondent police not to harass the petitioner illegally in the guise of enquiry without authority of law.

2. Heard Mr.A.Hajamohideen, learned counsel appearing for the petitioner and Mr.K.Anbarasan, learned Government Advocate (Crl.Side) appearing for the first respondent and perused the records.

3.The respondent/accused in this case filed a petition under Section 311 Cr.P.C., in Cr.M.P.No.3868 of 2016 for the examination of witnesses for adducing evidence on the defence side. The said petition was ordered on 22.10.2016, on condition that the accused should pay a cost of Rs. 1000/- to the complainant. This order was challenged in a criminal revision in Crl.R.P.No.80 of 2016 and the same was dismissed by the learned V-Additional District and Sessions Judge, Madurai, on the ground that the order passed by the learned Judicial Magistrate No.II, FTC, Magisterial Level, Madurai is only an interlocutory order and that such revision is



not maintainable as against an interlocutory order.

4. The order of the learned V-Additional District and Sessions Judge, Madurai, appears to be, reflecting the correct position, in view of the decision of the Hon'ble Supreme Court reported in **2009 (2) Crimes (1) SC**. The order passed by the learned Judicial Magistrate No.II, FTC, Magisterial Level, Madurai along with the interlocutory application for examination of witness for adducing evidence on the defence side is appropriate and proper and no serious prejudices have been caused to the petitioner herein, who is the complainant in the complaint preferred under Section 138 of Negotiable Instruments Act. Hence, this Court is not inclined to interfere with the order passed by the Court below and hence, this Criminal Original Petition is **dismissed**.

Sd/-

Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II, FTC,
Madurai.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.Haja Mohideen, Advocate in SR.No.65908

Pjl

AE/JC/SAR3/01.08.2017/2P/4C

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