

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.10847 of 2013

and

M.P.Nos.1 and 2 of 2013

1.G.Muralidharan

2.M/s.Alfadan Chemical Industries

by its Proprietor G.Muralidharan,
Door No.19/37, Vasudeva Puram,
Besant Road, Thiruvallikeni,
Chennai - 600 005.

...Petitioners / Accused 1 &2

Vs.

G.Ravichandran

...Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the C.C.No.201 / 2013, on the file of the Judicial Magistrate -II, Coimbatore, and quash the same.

For Petitioners :M/s.C.Prabhakaran

For Respondent :No appearance

O R D E R

This petition has been filed by the accused 1 & 2 to quash the proceedings against them in C.C.No.201 of 2013 on the file of the Judicial Magistrate -II, Coimbatore.

2.For the past several hearings, there was no representation for the respondent. Today also there is no representation for the respondent. Hence, after hearing the arguments, of Mr.C.Prabhakaran, learned counsel for the petitioners and perusing the materials available on record, the order is being passed.

3.The learned counsel for the petitioners has submitted that the respondent herein has filed a private complaint under Section 138 of Negotiable Instruments Act, alleging that the

first petitioner herein had borrowed a total sum of Rs.8,15,000/- on 28.03.2012 and issued 15 cheque leaves for various amounts. He further submitted that 8 cheques are relating to the Centurion Bank Limited, Chennai and the said bank was closed even in the year 2005 and therefore it would not be possible to issue cheques in the year 2012.

4.He further submitted that the petitioners herein have borrowed a sum of Rs.3 lakhs from one Neelakandan during the years 2002 and 2003. At that time the said Neelakandan has obtained signatures in blank Promissory Notes and also obtained signed blank cheque leaves. He further submitted that subsequently, the petitioners herein have repaid the aforesaid loan amount with interest in the year 2005 and requested the said Neelakandan to return those documents and he did not return those documents and hence, the first petitioner has lodged a complaint before the police on 30.08.2012 against the said Neelakandan and based on the said complaint the police called upon the said Neelakandan and enquire with him and during the enquiry the said Neelakandan has admitted that he is having documents with regard to the transactions took place between the first petitioner and himself and those documents are with one G.Ravichandran, who is the respondent herein. He further submitted that since the petitioner has repaid the debt, only with a view to get wrongful gain, the said Neelakandan has set up the respondent herein and filed a false complaint against the petitioners and the same has to be quashed.

5.According to the 1st petitioner, he borrowed a sum of Rs.3 lakhs from one Neelakandan during the years 2002 and 2003 and at that time the said Neelakandan has obtained the signatures in blank Promissory notes and also obtained signed blank cheques and subsequently in the year 2005, he has repaid the said loan with interest and made request to return those documents. But the said Neelakandan has not returned those documents relating to the Centurion Bank Limited, Chennai. He further states that he has lodged a complaint against the said Neelakandan before the police and during the enquiry on the said complaint, the said Neelakandan, admitted all the facts and hence the 1st petitioner is not liable to pay out any amount. It is their further case that in the complaint the respondent has started that 8 cheques relating to the Centurion Bank Limited, Chennai were issued by the petitioners herein in the year 2012 whereas, the said Centurion Bank Limited, Chennai itself was closed in the year 2005 itself and the aforesaid facts itself would show that no transactions could have been taken place in the year 2012.

6.The aforesaid facts are matter for appreciation of evidence. If the 1st petitioner is having evidence that he had

transactions only with the said Neelakandan that too in the years 2002 and 2003 and he borrowed only a sum of Rs.3 lakhs subsequently the said amount has been repaid in the year 2005, he can produce those evidence before the trial Court and establish that there was no transaction between the petitioners and the respondent herein. This Court under Section 482 of Cr.P.C., cannot decide the questions of facts. Therefore, this Court is of the view that this Criminal Original Petition is liable to be dismissed.

7.In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

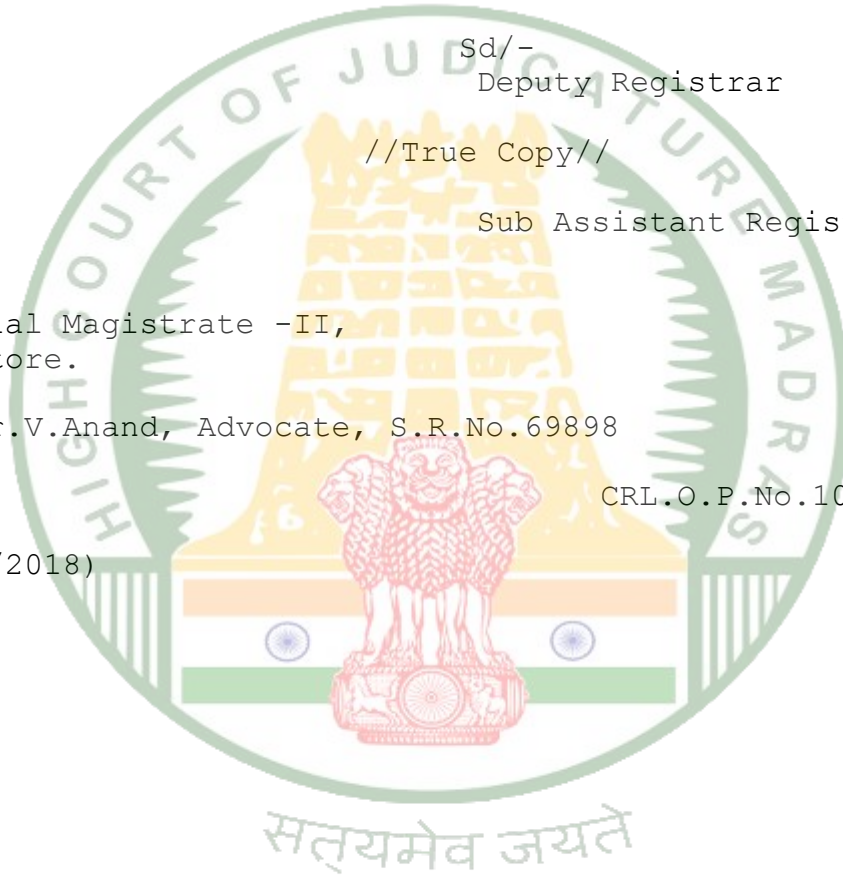
To

The Judicial Magistrate -II,
Coimbatore.

+1cc to Mr.V.Anand, Advocate, S.R.No.69898

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GSP(03/12/2018)



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