

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2018

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.29291 of 2015

and

M.P.Nos.1 & 2 of 2015 & Crl.M.P.No. 3146 of 2018

R.Mathialagan

...Petitioner

-Vs-

A.S.Ramasamy

...Respondent

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.117 of 2013 pending before the Learned Judicial Magistrate No.3, Salem and quash the same.

For Petitioner : Mr.R.Syed Mustafa

For Respondent : Mr.Dr.A.Thiyagarajan
Senior Counsel for S.Annadurai

ORDER

This Criminal Original Petition is filed to call the records in C.C.No.117 of 2013 pending before the Learned Judicial Magistrate No.3, Salem and quash the same.

2.The learned counsel for the petitioner raised various grounds before this Court and also relied upon various documents in order to establish that there has been no liability on the part of the petitioner on the date when the cheque was stated to have been issued by the petitioner.

3.This Court, exercising the jurisdiction under Section 482 of Cr.P.C., has very limited scope to go into the facts of the case. This Court cannot enter into the realm of appreciation of evidence and it is in the exclusive domain of the trial Court. If this Court has to entertain this Crl.O.P., this Court has to necessarily go into the facts of the case and also refer to the relevant documents and that may fall outside the scope of Section 482 of Cr.P.C.

4.It is left open to the petitioner to raise all these grounds before the Court below and mark all the relevant documents during the course of the trial Court. The trial Court is directed to consider the same on its own merits and in accordance with law.

5.The learned counsel for the petitioner requested this Court to consider dispensing with the appearance of the petitioner. The presence of the petitioner is dispense with and he shall be represented by the counsel before the Court below. The petitioner shall be present at the time of questioning under Section 313 Cr.P.C., and also at the time of passing the final judgment. On other occasions, the petitioner shall be represented by a counsel and he shall cross examine the witnesses on the same day they are examined in chief and the petitioner shall not question the identity of any witnesses.

6.The C.C. is of the year of 2013. Therefore, there shall be a direction to the Court below, namely Judicial Magistrate No.3, Salem, to conclude the proceedings within a period of two months from the date of receipt of a copy of this order.

7.The Criminal Original Petition is disposed of with above directions. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate III
Salem.

2.do through The Cheif Judicial Magistrate,
Salem.

+1 cc to M/s.R.Syed Mustafa, Advocate Sr.No.79776
+1 cc to M/s.S.S.Annadurai, Advocate Sr.No.79437

Cr1.O.P.No.29291 of 2015
and
M.P.No.1 & 2 of 2015 &
Cr1.M.P.No. 3146 of 2018

NRI (CO)
CSL/04.12.2018