



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.16461 of 2018

and

CrI.MP.Nos.8472 & 8473 of 2018

Brij Gopal

Proprietor

M/s.Bhagwati Agencies

.. Petitioner

Vs

M/s.Johnson and Johnson Limited

Represented by its

Assistant Manager, Regional Finance CPD Division

Mr.T.R.Prabhu

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the complaint in C.C.No.7394 of 2016 on the file of the learned Metropolitan Magistrate, FTC-I, Egmore.

For Petitioner : Mr.M.Yazar Arafath

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the complaint in C.C.No.7394 of 2016 on the file of the Metropolitan Magistrate, FTC-I, Egmore.

2. For the sake of convenience, the petitioner and the respondent will be referred to the accused and the complainant respectively.

3. The complainant has initiated a prosecution in C.C.No.7394 of 2014 before the II Additional Chief Metropolitan Magistrate, Hyderabad, under Section 138 of the Negotiable Instruments Act, 1881 and the same has been transferred to Chennai, on the ground of jurisdiction and the case is now pending on the file of the Judicial Magistrate, Fast Track Court No.I, Egmore, Chennai in C.C.No.7394 of 2016. Under such circumstances, the accused is before this Court for quashing this prosecution.

4. Heard Mr.M.Yazar Arafath, learned counsel for the



accused, who submitted that the accused is suffering from cancer and therefore, the presence of the accused before the trial Court may be dispensed with.

5. On a perusal of the complaint, it is seen that there are prima facie materials for the prosecution to proceed against the accused and the same cannot be quashed. Hence, this petition is closed.

6. However, taking into consideration the fact that the accused is suffering from cancer, his presence before the trial Court is dispensed with on condition that he shall execute a bond for Rs.5,000/- without sureties under Section 88 Cr.P.C. Thereafter, the petitioner shall appear before the trial Court for receiving the complaint, for questioning under Section 251 Cr.P.C., at the time of questioning under Section 313 Cr.P.C. and at the time of passing judgment. For the other hearings, the petitioner shall file a petition before the trial Court under Section 317 Cr.P.C., giving an undertaking that he will not dispute his identity and that the counsel named by him in the affidavit will cross-examine the prosecution witnesses on the day he is examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab [2015(1) MLJ (Crl) 288]. On such a petition being filed, the trial Court may liberally consider the same. If the accused adopts any dilatory tactics, it is open to the trial Court to insist upon his presence and remand him to custody as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319]. If the accused absconds, the trial Court shall direct registration of an FIR against him under Section 229-A IPC. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

mk

To

The Metropolitan Magistrate,
FTC-I, Egmore,
Chennai.

CRL.O.P.No.16461 of 2018

GN(04/07/2018)