

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.21204 of 2018

L.Anthuraj

... Petitioner

Vs

J.Vijaya Kumar

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the Judicial Magistrate Court at Arakkonam to receive the Application filed by the Petitioner/Accused u/s.251 of Cr.P.C. in the C.C.No.137 of 2014 pending on the file of this Hon'ble Court and pass such an order.

For Petitioner : Mr.S.Mahaveer Shivaji

O R D E R

The petitioner is an accused in C.C.No.137 of 2014 on the file of the Judicial Magistrate, Arakkonam for an offence under Section 138 of Negotiable Instruments Act. On receipt of summons, the accused appeared before the trial Court and filed discharge application in Crl.M.P.No.4301 of 2016 under Section 245 Cr.P.C., which was dismissed by the trial Court on 19.05.2018. Thereafter, the accused filed an application under Section 251 Cr.P.C. and it is the grievance of the accused that the trial Court had refused to take the same on file and therefore, the accused is before this Court with the above prayer.

2.Heard the learned counsel for the accused and perused the materials placed on record.

3.Trial for an offence under Section 138 of Negotiable Instruments Act should have to be conducted in terms of Chapter XX of the Code of Criminal Procedure. Unlike, Chapter XIX of the Code of Criminal Procedure where charges have to be framed, under Chapter XX of the Code of Criminal Procedure, charges need not be framed and therefore, there is no question of discharge.

That apart, in Indian Bank Association and Others Vs Union of India and Others ([2014] 5 SCC 590) and in Meters & Instruments Pvt. Ltd. Vs Kanchana Mehta ([2018] 1 SCC 560), the Supreme Court has given guidelines as to how the trial in a prosecution under Section 138 of the Negotiable Instruments Act should be conducted. These guidelines do not attempt the petition for discharge. Therefore, the trial Court was justified in dismissing CMP.No.4301 of 2016 and not entertaining the application filed by the accused under Section 251 Cr.P.C. Hence, no directions as prayed for by the petitioner/accused can be granted and this petition is dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gya

To

The Judicial Magistrate Court,
Arakkonam.

+1cc to Mr.S.Mahaveer Shivaji, Advocate Sr.60025

CRL.OP.No.21204 of 2018

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srg 12/09/2018

सत्यमेव जयते

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