

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.21310 of 2018
and Crl.M.P.Nos.11597 & 11598 of 2018

Tamilselvi

..Petitioner

Vs

1. R.Sudhakar

2. R.Jayalakshmi

..Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in STC No.270 of 2018 on the file of the District Munsif & Judicial Magistrate Court, Nannilam and quash the same.

For Petitioner : Mr.D.Veerasekaran

O R D E R

The petitioner is facing prosecution in STC No.270 of 2018 before the learned District Munsif-cum-Judicial Magistrate, Nannilam for offence under Section 138 Negotiable Instruments Act, for quashing which, the petitioner is before this Court.

2. Heard Mr.D.Veerasekaran, learned counsel for the petitioner/ accused.

3. It is the case of the complainant that the accused had purchased a property belonging to the second complainant on 29.01.2010 and had agreed to pay a total sale consideration of Rs.1,70,000/-. But, however in the sale deed, a sum of Rs.65,000/- alone was put as sale consideration. Towards the rest of the amount, the accused is said to have issued the impugned cheque, which when presented by the complainant, was dishonored. The complainant issued a statutory notice dated 19.02.2018 to the accused. In reply to the said notice, the accused sent reply notice dated 05.03.2018.

4. Mr.D.Veerasekaran, learned counsel for the petitioner/accused contended that when the sale deed clearly states that the sale consideration was a sum of Rs.65,000/- which has already been received by the complainant, there is no question of further sum of Rs.69,000/- payable by the accused to

the complainant by the impugned cheque.

5. The fact remains that the accused had issued a cheque Rs.69,000/- to the complainant. Even in the reply notice dated 05.03.2018, the accused has not stated as to how the cheque went into the possession of the complainant. In the light of decision of the Supreme Court in the case of "S. Krishnamurthy Vs. V. Chellammal reported in (2015) 4 Scale 371", disputed questions cannot be gone into in a quash petition filed under Section 482 of Cr.P.C. Hence, this petition is closed with the liberty to the petitioner to raise all the points before the trial Court.

6. Mr.Veerasekaran, learned counsel for the petitioner/accused submits that the petitioner is a Teacher in Andarpathi Elementary School, Nannilam.

7. Hence, the petitioner is directed to appear before the trial Court within a period of two weeks from the date of receipt of a copy of this order and file a petition under Section 436 of Cr.P.C. The trial Court is directed to release the petitioner on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties. The petitioner shall appear before the trial Court for receiving copies under Section 207 Cr.P.C., for answering charges under Section 251 of Cr.P.C., for questioning under Section 313 Cr.P.C. and on the date of judgment. Rest of the hearings, the presence of the petitioner is dispensed with, if he files an application under Section 317 Cr.P.C., on undertaking that he will not dispute his identity and that, his counsel will cross-examine the witnesses when they examined in-chief, as held by the Supreme Court in Vinodh Kumar Vs State of Punjab reported in 2015[1] MLJ [Cr1] 288, the same shall be liberally construed. If he adopts any dilatory tactics, the trial Court shall insist upon his presence. If he absconds, a fresh FIR can be registered against him under Section 229-A of IPC.

8. Accordingly, this criminal original petition is closed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rts/pns

To

The District Munsif & Judicial Magistrate Court,
Nannilam, Tiruvarur District.

+1cc to Mr.D.Veerasekaran, Advocate, S.R.No.60363.

CRL.O.P.No.21310 of 2018 and
Crl.M.P.Nos.11597 & 11598 of 2018

BR(CO)

rrs 03/10/2018



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