

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.15503 of 2018
and
Crl.MP.No.7908 of 2018

Usain

...Petitioner

vs.

P.Sathiyamoorthy

...Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to set aside the order in the above Crl.MP.No.738 of 2018 in C.C.No.8435 of 2014 on the file of the Metropolitan Magistrate No.XX, Chennai, dated 03.03.2018.

For petitioner : Mr.R.Thanjan

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 03.03.2018 in Crl.MP.No.738 of 2018 in C.C.No.8435 of 2014 on the file of the Metropolitan Magistrate Court No.XX, Chennai.

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

3. It is the case of the complainant that the accused borrowed Rs.2,80,000/- and to repay the same, the accused had issued a cheque for the said amount and the same was dishonoured. The complainant issued a statutory notice on 22.03.2014, for which, the accused has replied on 04.04.2014. Since the accused did not make the payment, the complainant initiated a prosecution in C.C.No.8435 of 2014 and the same is pending on the file of the XX Metropolitan Magistrate, Ripon Building, Chennai. The complainant filed his proof affidavit and was extensively cross examined by the accused on 20.02.2018. The accused has taken a stand that his name is Syed Khaja Hussain, whereas, in the statutory notice and in the complaint, his name has been shown as Usain. Therefore, the complainant

filed Crl.MP.No.738 of 2018 in C.C.No.8435 of 2014 under Section 311 Cr.P.C. for his further examination and for marking certain documents, which has been allowed by the trial Court on 03.03.2018, challenging which, the accused is before this Court.

4. Heard Mr.R.Thanjan, learned counsel for the accused who submitted that Syed Khaja Hussain is different from Usain.

5. However, in the reply notice dated 04.04.2014, the accused has not taken any such plea. That apart, in the complaint, the accused has been shown as Usain, S/o.Niyajohn. Thus, there is sufficient description of the accused in the complaint. It is always open to the accused to further cross-examine the complainant, after his examination in chief pursuant to the order dated 03.03.2018 passed by the XX Metropolitan Magistrate, Ripon Building, Chennai in Crl.MP.No.738 of 2018.

With the above observation, this petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mk

To

1.The Metropolitan Magistrate Court No.XX
Chennai.

2.The Chief Metropolitan Magistrate,
Egmore, Chennai-8

Copy To

The Section Officer,
Criminal Section,
High Court, Madras-104.

KAN (CO)
CS/29/06/18

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