

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.16507 of 2018

and

CrI.MP.Nos.8502 & 8503 of 2018

Raja

.. Petitioner

Vs

Damodaran

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to STC.No.23 of 2018 on the file of the Fast Track Court (Mahila Court), Tiruvallur and quash the same.

For Petitioner : Mr.T.Muruganantham

O R D E R

This Criminal Original Petition has been filed to call for the records relating in STC.No.23 of 2018 on the file of the Fast Track Court (Mahila Court), Tiruvallur and quash the same.

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.3,60,000/- on 10.04.2017 and also executed a promissory note in favour of the complainant. When the complainant demanded returning of money, the accused is said to have issued the impugned cheque on 15.12.2017; that when the cheque was presented, it was dishonoured on the ground kindly contact drawer. Thereafter, the complainant issued a statutory notice dated 01.02.2018. Since the accused did not make the payment, the Complainant has lodged the present prosecution and the same is now pending in STC.No.23 of 2018 before the Fast Track Court (Mahila Court), Tiruvallur, for quashing which, the accused is before this Court.

4. Mr.T.Muruganantham, learned counsel for the accused submitted that the accused has given a detailed reply dated 14.02.2018 in response to the statutory notice dated 01.02.2018. He further submitted that in the reply notice, the accused has set out the entire defence and disputed the claim of the de facto complainant.

5. In the opinion of this court, in a proceeding under Section 482 Cr.P.C., this Court cannot go into the disputed questions of fact in the light of the law laid down in S.Krishnamoorthy Vs. V.Chellammal (2015) 4 Scale 371. Under such circumstances, this petition is dismissed, with liberty to the accused to raise all the points before the trial Court since there are prima facie materials against the accused for the trial to proceed. The learned counsel for the accused sought permission of this Court to dispense with the personal appearance of the petitioner.

6. Accepting his submission, 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. On his appearance, he shall file a petition under Section 436(1) Cr.PC, for bail and the trial Court shall release him on bail on the same day, on he executing a bond for Rs.5,000/- with two sureties. Thereafter, the petitioner shall appear before the trial Court for receiving the charge sheet, for questioning under Section 251 Cr.PC, 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.PC., 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 (Cr1) 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.

7. The learned counsel for the accused submitted that the matter may be referred to the Mediation Centre. This Court is not inclined to refer the matter to the Mediation Centre, High Court, because the parties will have to come all the way to Chennai. Instead, this Court directs the trial Court to refer both the parties to the local Mediation Centre for arriving at a settlement. The mediation proceedings cannot be prolonged indefinitely and the same shall be completed within a period of

one month from the date of reference by the trial Court.
Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

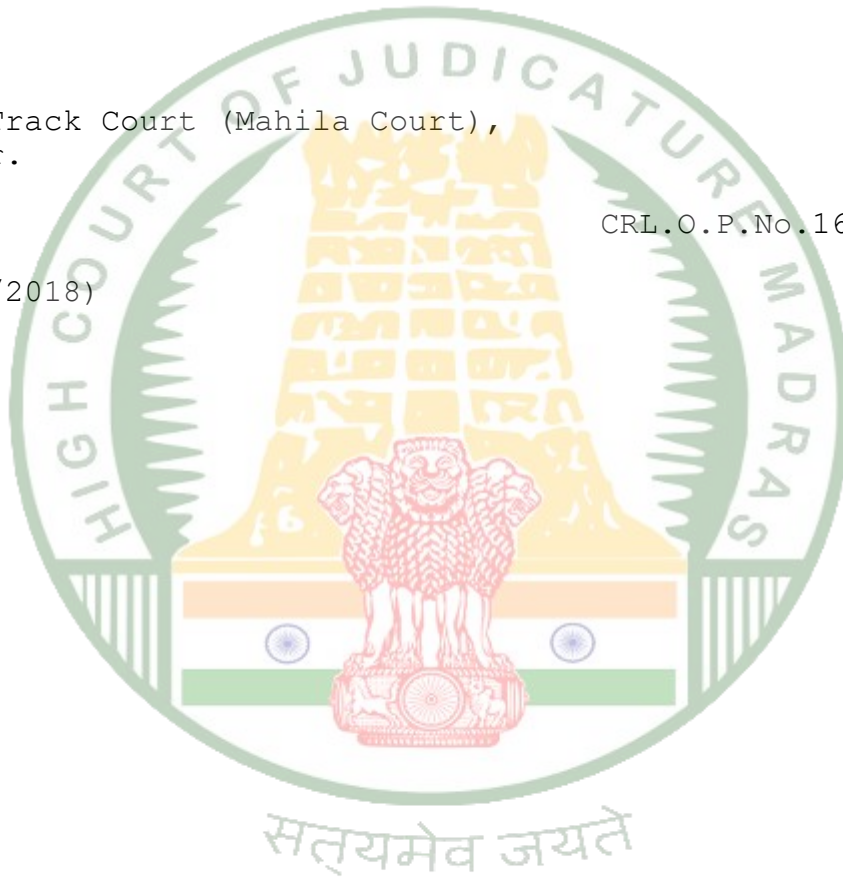
mk

To

The Fast Track Court (Mahila Court),
Tiruvallur.

CRL.O.P.No.16507 of 2018

GSP(06/07/2018)



WEB COPY