

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CrI.O.P.No.27366 of 2016

and

CrI.M.P.Nos.13927 and 13928 of 2016

P.Kathiravan

...Petitioners/Accused

versus

K.Suresh

...Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the records and quash C.C.No.135 of 2013 on the file of the learned Judicial Magistrate No.I, Namakkal.

For Petitioner : Ms.R.Raji
for Mr.S.Saravanakumar

For Respondent : Ms.Hemalatha
for Mr.C.Prakasam

ORDER

This Criminal Original Petition has been filed to call for the records and quash C.C.No.135 of 2013 on the file of the learned Judicial Magistrate No.I, Namakkal.

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

3. The complainant has initiated a prosecution in C.C.No.135 of 2013 before the learned Judicial Magistrate No.I, Namakkal, Salem District against the accused under Section 138 of the Negotiable Instruments Act, 1881, challenging which, the accused has filed the present Criminal Original Petition.

4. Heard Ms.Raji, learned counsel for the accused and Ms.Hemalatha, learned counsel for the complainant.

5. The learned counsel for the accused vehemently submitted that the entire prosecution is misconceived and an

abuse of process of law, inasmuch as the accused and the complainant were very close friends and taking advantage of the relationship, the complainant has lodged the present prosecution and therefore the same deserves to be quashed.

6. Per contra, the learned counsel for the respondent submitted that the trial in C.C.No.135 of 2013 had begun and witnesses have also been examined and the matter is posted for arguments before the trial Court.

7. In such view of the matter, the present Criminal Original Petition cannot be entertained. Since this Court cannot appreciate the evidence recorded by the trial Court in the proceedings under Section 482 of Cr.P.C., the Criminal Original Petition is liable to be dismissed as being devoid of merits and it is accordingly dismissed. Consequently, connected miscellaneous petitions are dismissed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

cla

To

1.The Judicial Magistrate No.1,
Namakkal.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Saravanakumar,Advocate, S.R.No.26371

+1cc to Mr.C.Prakasam,Advocate, S.R.No.26157

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RRK(16/5/2018)