

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2018

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CrI.O.P.No.23194 of 2018 and
CrI.M.P.No.12948 of 2018

Thangayyan ... Petitioner/Accused
Vs

Pandian ... Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to allow the petition and set aside the order dated 27.06.2018 passed in STC. No.208 of 2015 on the file of the Judicial Magistrate No.I, Chidambaram.

For Petitioner : Mr.R.Gururaj

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 27.06.2018, passed in STC. No.208 of 2015 on the file of the Judicial Magistrate Court No.I, Chidambaram.

2. The petitioner is an accused in STC No.208 of 2015, for the offence under Section 138 of the Negotiable Instruments Act, 1881. After receipt of summons, the accused filed a counter before the trial Court and the same has been rejected by the trial Court by impugned order dated 27.06.2018, challenging which, the petitioner/accused is before this Court.

3. Heard the learned counsel for the petitioner/accused, who submitted that the trial Court ought not to have rejected the counter filed by the petitioner/accused.

4. In the opinion of this Court, there is no procedure contemplated under the Code of Criminal Procedure, permitting the accused to file counter in a criminal case. This is an unknown jurisprudence, which, this Court cannot permit to evolve. It is the duty of a counsel to give proper legal advice to his client who comes to engage him. Indian criminal justice system is predicated on the presumption of innocence of the accused and the burden is on the prosecution to prove the case

beyond reasonable doubt. Under Article 20(3) of the Constitution of India and Section 315 Cr.P.C., an accused cannot be compelled to be a witness against himself. Unlike the Code of Civil Procedure where the defendant is required to file his written statement to the plaint, under the Code of Criminal Procedure, there is no provision for the accused to file a counter to the complaint against him. It is indeed very sad that the accused in this case has not received proper legal assistance.

Hence, this petition stands dismissed as being devoid of merits. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS ix)

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Sub Assistant Registrar

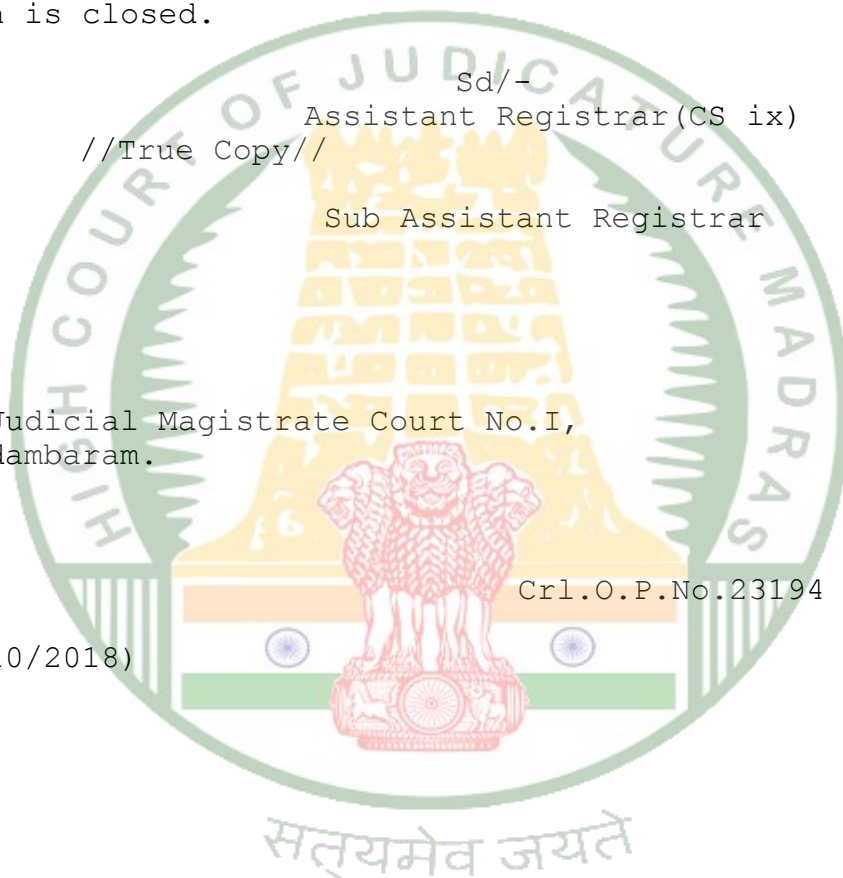
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To

1. The Judicial Magistrate Court No.I,
Chidambaram.

Crl.O.P.No.23194 of 2018

ASK(12/10/2018)



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