

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.No.26788 of 2018
and
CrI.M.P.Nos.15431 & 15434 of 2018

V.Ramani

...Petitioner

Versus

C.Kathirvel

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.147 of 2016 on the file of the Judicial Magistrate Court No.I, Namakkal and quash the same.

For Petitioner : Mr.S.Karthikei Balan
For Respondent : No appearance.

O R D E R

This petition has been filed seeking to quash the proceedings initiated by the respondent for the offence under Section 138 of the Negotiable Instruments Act.

2.The learned counsel for the petitioner would submit that the cheques belonging to the petitioner were lost during the year 2014 and the complaint was also given before the police on 17.12.2014 and a Non-traceable Certificate was issued by the Inspector of Police, Sivagangai on 28.12.2014 and thereafter, the lost cheques have been misused by the respondent and the present complaint has been filed. The learned counsel for the petitioner would further submit that a reading of the complaint does not even reveal the fact as to how, there is an existing debt or liability on the part of the petitioner.

3.It is seen from the records that the complaint is of the year 2016. The grounds raised by the learned counsel for the petitioner are purely factual in nature and the same has to be raised only before the Court below in the course of proceedings as a defence. The Court below shall consider the

same on its own merits and and in accordance with law. This Court cannot enter into the field of appreciation of evidence, in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure.

4.The learned counsel for the petitioner would submit that the presence of the petitioner may be dispensed with, since he is aged more than 61 years. The presence of the petitioner is dispensed with and he shall be represented by a counsel before the Court below. The petitioner shall be present before the Court at the time of questioning under section 313 of Cr.P.C and at the time of passing judgement. The counsel representing the petitioner shall cross-examine the witnesses on the very same day, when they are examined in chief and the petitioner shall not question the identity of the witnesses.

5.The Criminal Original Petition is disposed of, with a direction to the Court below to complete the proceedings in C.C.No.147 of 2016, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition Crl.M.P.No.15431 of 2018 is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vv2/rm

To

1.The Judicial Magistrate No.I,
Namakkal.

+1cc to Mr.S.Karthikei Balan, Advocate, S.R.No.79713

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(GSP (03/12/2018))

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