IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Third day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL ORIGINAL PETITION No.26932 of 2018

AND CRL.M.P.NOS.15545 & 15546 of 2018

O.VENKATACHALAPATHY, [PETITIONER / ACCUSED]

Vs

G.SATHIAMURTHY, [RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to call for the complaint and entire records in S.T.C.No. 2690 of 2017 on the file of the Learned Judicial Magistrate No.IV, Salem and quash the same with respect to the petitioner herein allow this petition.

(i) To Stay all further proceedings in S.T.C.No. 2690 of 2017 on the file of the Learned Judicial Magistrate No.IV, Salem, pending disposal of the above Crl.O.P.No.26932/2018. (CRL.M.P.NO.15545/2018)

(ii) To Dispense with the personal appearance of the petitioners herein in all further proceedings in S.T.C.No. 2690 of 2017 on the file of the Learned Judicial Magistrate No.IV, Salem, pending disposal of the above Crl.O.P.No.26932/2018. (CRL.M.P.NO.15546/2018)

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.KV LAW FIRM, Advocate for the petitioner, the court made the following order:-

Notice to the respondent returnable by 18.12.2018. Private notice is also permitted.

2. The petitioner has been arrayed as A3 in this case. The respondent has filed a complaint under Section 138 of Negotiable Instruments Act. The first accused is a firm and the second accused is a partner, who is also signatory of the cheque. This petitioner had been added as an accused on the ground that he is also a partner of the first accused firm.

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3. The learned counsel for the petitioner would submit that the compliant does not satisfy the requirements of Section 141 of Negotiable Instruments Act. The complaint does not state how and in what manner, the petitioner is involved in the day-to-day affairs of the first accused firm. There is only a bald allegation available in the complaint to the effect that this petitioner is also actively participating in the business.

3. Since the petitioner has made out a *prima facie* case, there shall be an order of interim stay of all further proceedings in S.T.C.No.2690 of 2017 on the file of the learned Judicial Magistrate No.IV, Salem, till 18.12.2018, in sofar as this petitioner is concerned.

4. The personal appearance of the petitioner before the learned Judicial Magistrate No.IV, Salem, in S.T.C.No.2690 of 2017 is dispensed with, pending disposal of the Criminal Original Petition.

5. Registry is directed to post the matter on 18.12.2018 for final hearing.

-sd/-
03/12/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.IV, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

+1 CC to M/S.KV LAW FIRM Advocate on payment of necessary charges SR.NO.23045

CRL OP.26932/2018
AND CRL.M.P.NOS.15545 & 15546 of 2018

Date :03/12/2018

TA-07/12/2018

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