

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.12.2018

CORAM:
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.O.P. No.28478 of 2018
and
Crl.M.P.Nos.16570 & 16571 of 2018

R.Srinivasan

..Petitioner/Accused

. Vs .

N.Damodharan

..Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the entire proceedings pending in C.C.No.691 of 2018, on the file of the III Fast Track Court, Saidapet, Chennai pending enquiry.

For Petitioner : Mr.V. Sambamurthy

For Respondent : No Appearance

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.691 of 2018, pending on the file of the Fast Track Court-III, Saidapet, Chennai.

2.The learned counsel for the petitioner would submit that the petitioner is a practising advocate. The petitioner's friend named Niyaz, had obtained loan from the respondent for his business. He was also paying the interest regularly. However subsequently, the said Niyaz stopped paying the amount and the respondent approached this petitioner asking him to give a cheque as a guarantee. The petitioner with a bonafide intention that the respondent will not misuse the cheque, gave his cheque as a security. However, this cheque has now been misused by the respondent, and a complaint has been filed under Section 138 of the Negotiable Instruments Act.

3.Issues raised by the petitioner are factual in nature and this Court cannot consider the same in exercise of its jurisdiction under Section 482 of Cr.P.C. All these issues must be raised before the Court below in the course of the proceedings and the Court below shall consider the same on its own merits, and in accordance with law. This Court is not

inclined to interfere with the proceedings at this stage.

4.The learned counsel for the petitioner would submit that the presence of the petitioner may be dispensed with before the Court below. The presence of the petitioner is dispensed with before the Court below and he shall be represented by an advocate. The petitioner shall be present before the Court below at the time of questioning under Section 251 Cr.P.C when the substance of accusation is put to the petitioner, at the time of questioning under Section 313 of Cr.P.C and at the time of passing of the judgment. The counsel representing the petitioner shall cross examine the witness on the same day they are examined in chief, and the petitioner shall not be dispute the identity of any witness.

Accordingly, the Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings within a period of four months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KP

To

1.The III Fast Track Court,
Saidapet, Chennai.

+2ccs to Mr.V.Sambamurthy, Advocate, S.R.No.84921 (21/12/2018)

CrI.O.P. No.28478 of 2018

SJ(CO)

rrs 20/12/2018

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