

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.28369 of 2018

and

CRL.M.P.Nos.16490 & 16491 of 2018

Dhandapani

...Petitioner/Accused

Vs.

Sunilkumar

...Respondent/
De-facto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the C.C.No.7 of 2018 on the file of the learned Judicial Magistrate, Thirukovilur and quash the same.

For Petitioner : Mr.B.Sundarapandiyar

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.7 of 2018, pending on the file of the learned Judicial Magistrate, Thirukovilur.

2. The learned counsel for the petitioner would submit that the cheques, which were given as security in the year 2014, have been misused by the respondent in the year 2017 and thus, a complaint has been filed against this petitioner for an offence under Section 138 of Negotiable Instrument Act. The learned counsel would submit that there exists no debt or liability on the date when the alleged cheque was deposited by the respondent in his bank account.

3. The issues which have been raised by the learned counsel for the petitioner are factual in nature. At best, it can only be raised by way of defence before the Court below and the Court below will consider the same in its own merits and in accordance with law, in the course of proceedings. This Court cannot enter into the appreciation of evidence while exercising its

jurisdiction under Section 482 of Cr.P.C. It is open to the petitioner to raise all the issues before the Court below. This Court is not inclined to interfere with the proceedings pending before the Court below.

4. The learned counsel for the petitioner requested this Court to dispense with the appearance of the petitioner. The appearance of the petitioner shall be dispensed with and he shall be represented by a learned counsel. The petitioner shall be present before the Court at the time of questioning under Section 313 of the Cr.P.C and at the time of passing of the judgment. The counsel, who represents the petitioner, shall cross-examine the witnesses on the same day, when they are examined in chief. The petitioner shall not dispute the identity of the witnesses.

5. With the above directions, the Criminal Original Petition is disposed of. The Court below is directed to dispose of the proceedings within a period of four months from the date of receipt of this order. Consequently, connected miscellaneous petitions are closed.

ub/rri

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Thirukovilur.

2.Thro: The Chief Judicial Magistrate,
Villupuram District.

+1cc to Mr.B.Sundarapandian, Advocate, S.R.No.83457

CRL.O.P.No.28369 of 2018
and

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