

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.28647 of 2018
and CRL.M.P.No.16666 of 2018

S.Kalpana

... Petitioner

Vs.

V.Chidambaranathan

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the questioning recorded against the Petitioner/Accused in S.T.C.No.95 of 2017 on the file of the Judicial Magistrate, Tirupathur dated 15.11.2018 and quash the same.

For Petitioner : Mr.C.K.M.Appaji

For Respondent : -

O R D E R

This petition has been filed challenging the procedure adopted by the Court below in questioning the petitioner under section 251 of Cr.P.C.

2. The petitioner is an accused in a criminal complaint filed by the respondent under section 138 of the Negotiable Instruments Act. After notice, when the matter was called on 10.11.2017, the bailable warrant that was pending against the petitioner was recalled and the matter was adjourned for putting the substance of accusation to the petitioner. In the mean time, the matter was referred to Lok Adalat. Since, the petitioner was not present in the subsequent hearing dates, again a bailable warrant was issued against the petitioner. Ultimately, the bailable warrant was recalled by an order dated 15.11.2018.

3. The docket order shows that copies were furnished to the petitioner and substance of accusation was also heard on 15.11.2018. The petitioner also pleaded not guilty. Thereafter, the case was posted for the complainant side evidence on 23.11.2018.

4. The learned counsel for the petitioner would submit that the substance of accusation was put to the petitioner even without furnishing a copy of the complaint to the petitioner. Therefore, according to the learned counsel for the petitioner, the procedure as contemplated under section 204 was not followed by the learned Magistrate and consequently, the substance of accusation put to the petitioner is not valid.

5. The docket order passed by the Court below shows that the copy of the complaint was given to the petitioner and only thereafter the substance of accusation was put to the petitioner.

6. This Court does not want to go into the said issue at this stage, since the petitioner already has a copy of the complaint along with the relevant documents. The petitioner has also already pleaded not guilty and the Court below has posted the case for evidence on the side of the complainant. Therefore, in the considered view of this Court, no prejudice has been caused to the petitioner in the procedure adopted by the Court below. The petitioner will always have sufficient opportunity to cross examine the witnesses and also examine witness on the side of the defence.

7. This Criminal Original Petition is disposed with the direction to the Court below to proceed further with the complaint by affording sufficient opportunity to the petitioner to cross examine witnesses and also examine defence witnesses, if any, in order to defend his case in the Criminal complaint. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gbi/rm
To

1. The Judicial Magistrate,
Tirupathur

CRL.O.P.No.28647 of 2018
and CRL.M.P.No.16666 of 2018

NRI (CO)
GSP (03/01/2019)