



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
Cr1.O.P.[MD].No.16837 of 2016
and
Cr1.M.P(MD)No. 8314 of 2016

N.Arumugam

: Petitioner

Vs.

P.Nandha Gopal

: Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in S.T.C.No.45 of 2016 by the Judicial Magistrate, Fast Track Court (Magistrate Level) Uthamapalayam and quash the same in so far as the petitioner is concern.

For Petitioner : Mr.R.Ilayaraja
For Respondent : Mr.M.Ravishankar

ORDER

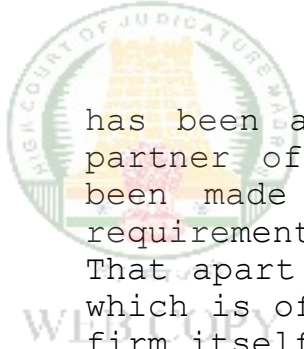
This Criminal Original Petition has been filed seeking to quash the proceedings in S.T.C.No.45 of 2016 pending on the file of the learned Judicial Magistrate, Fast Track Court (Magistrate Level), Uthamapalayam.

2.The petitioner is arrayed as third accused in this case. The complaint has been filed against the partner ship firm which is shown as first accused and the signatory of the cheque on behalf of the partnership firm is shown as second accused and this petitioner has been arrayed as an accused on the ground that he is also a partner in the first accused firm.

3.The petitioner has filed this Criminal Original Petition on the ground that he has resigned from the partner ship firm in the year 2011 itself by virtue of the deed of dissolution dated 20.11.2011. That apart the petitioner has also brought to the notice of this court the certificate given by the Registrar of Companies, Puducherry on 30.08.2013, wherein it has been specifically stated that the partnership firm itself has been dissolved with effect from 20.11.2011. The learned counsel for the petitioner has also brought to the notice of this Court the fact that admittedly it is the second accused who has signed the cheque on behalf of the first accused firm and therefore, even if the petitioner has to be arrayed as an accused in the complaint, sufficient averments must be made as per requirements under Section 141 of the Negotiable Instruments Act.

<https://hcservices.ecourts.gov.in/hcservices/>

4.A reading of the complaint makes it clear that the petitioner



has been arrayed as an accused only on the ground that he was a partner of the first accused firm. Sufficient averments have not been made in the complaint against this petitioner as per the requirements under Section 141 of the Negotiable Instruments Act. That apart the petitioner has produced before this Court a document which is of sterling nature, which goes to show that the partnership firm itself has been dissolved with effect from 20.11.2011.

5. In view of the above, this court is of the considered view that the continuation of the proceedings as against this petitioner is an abuse of process of court and therefore, this Court has to necessarily exercise its jurisdiction under Section 482 of Criminal Procedure Code and quash the proceedings, insofar as this petitioner is concerned.

6. In the result, the proceedings in S.T.C.No.45 of 2016 on the file of the learned Judicial Magistrate, Fast Track Court (Magistrate Level) Uthamapalayam is hereby quashed, insofar as the petitioner is concerned. The court below is directed to proceed further against the other accused persons and complete the proceedings within a period of three months from the date of receipt of a copy of this order.

7. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Judicial Magistrate,
Fast Track Court (Magistrate Level),
Uthamapalayam.

2. The Section Officer,
Criminal Section (Records)
Madurai Bench of Madras High Court,
Madurai. 2COPIES

DAS

DS PM SAR3 31 12 2018 2P 4C

Crl.O.P. [MD] .No.16837 of 2016
and

Crl.M.P (MD) No. 8314 of 2016