



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.(MD)No.19431 of 2016
and
CrI.M.P.(MD)No.9749 of 2016

A.Anantha Srinivasan

... Petitioner/Accused

Vs.

K.Shankar

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records pertaining to the private complaint in C.C.No.241 of 2014 pending before the learned Judicial Magistrate, Fast Tract Court, Tuticorin dated 16.07.2014 filed under Section 138 of Negotiable Instrument Act and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy

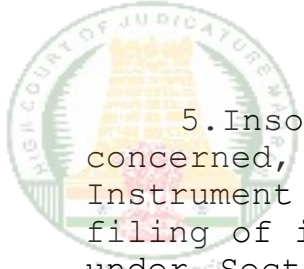
ORDER

This Criminal Original Petition has been filed, seeking to quash the proceedings in C.C.No.241 of 2014, pending on the file of the Judicial Magistrate, Fast Tract Court, Tuticorin.

2.The learned counsel appearing for the petitioner would submit that the cheque was given as a security to the respondent and the same has been misused.

3.The next ground that has been taken by the learned counsel appearing for the petitioner, is that the petitioner has already filed an Insolvency Petition in I.P.No.8 of 2014 and a complaint under Section 138 Negotiable Instruments Act has been filed subsequent to the same. Therefore, the complaint filed by the respondent is not maintainable.

4.Insofar as the first ground that has been taken by the learned counsel appearing for the petitioner is concerned, the same is purely factual in nature and it has to be established only before the Court below in the course of proceedings and the Court below shall consider the same on its own merits and in accordance with law.



5. Insofar as the second ground raised by the petitioner is concerned, it has been held that offence under the Negotiable Instrument Act is an independent offence by itself and therefore, filing of insolvency petition is not a ground to stop the proceeding under Section 138 Negotiable Instruments Act. When a person had issued a cheque, and the same gets dishonored, he is said to have committed an offence under Section 138 Negotiable Instruments Act.

6. This Court is not inclined to quash the proceedings in C.C.No.241 of 2014. In the result, this Criminal Original Petition is dismissed. The Court below is directed to complete the proceedings, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To:

The Judicial Magistrate,
Fast Tract Court, Tuticorin.

+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 93182

MYR

TE/PM/SAR-3 : 19/11/2018 : 2P/3C

Cr1.O.P. (MD) No.19431 of 2016

29.10.2018

(1/2)