



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) No.22544 of 2016
and
Crl.M.P. (MD) No.11762 of 2016

A.Anantha Srinivasan

... Petitioner/Accused

Vs.

M/s.Royal Finance,
Having Office at,
49C, Railway Station Road, Tuticorin
Through its Partner
K.Jeyaselan

S/o.A.P.Kasi Nadar and R.Gunasekaran

S/o.Rajagopal Nadar represented by its one of the partner
and power agent

A.H.Bala Krishnan

S/o.Henry Nadar

D.No.15A, Thiraviyapuram,
6th Street, Tuticorin.

... 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.201 of 2014 pending before the learned Judicial
Magistrate, Fast Tract Court, Tuticorin filed under Sections 138 and
142 of Negotiable Instrument Act and quash the same as illegal.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondent

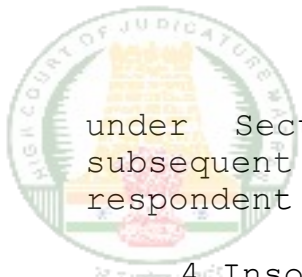
: Mr.A.Thiruvadikumar

ORDER

This Criminal Original Petition has been filed, seeking to
quash the proceedings in C.C.No.201 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.201 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. 93179

MYR

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

Cr1.O.P. (MD) No.22544 of 2016
29.10.2018

(2/2)