



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No. 9716 of 2016

and Crl.M.P (MD) Nos. 4882 & 4883 of 2016

S.M. Balgeesbegum

... Petitioner/Accused

Vs.

T. Raja

... Respondent/Complainant

Prayer: This Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in STC No.14 of 2016 pending on the file of the learned Judicial Magistrate (Fast Track Court), Theni and quash the same.

For Petitioner : M/s. A.K. Manickam

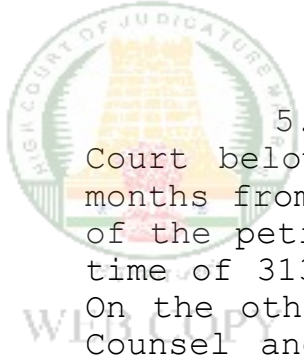
ORDER

This petition has been filed, seeking to quash the proceedings in STC No.14 of 2016 on the file of the learned Judicial Magistrate (Fast Track Court), Chennai.

2. The learned Counsel for the petitioner would submit that the cheque in question was given as a security. The learned Counsel also referred to the memorandum of understanding dated 14.03.2015 where there are certain obligations cast on the respondents to fulfill and only thereafter liability on the part of the petitioner will arise. Therefore, the learned Counsel would submit that even before fulfilling the obligations, the respondent has proceeded to deposit the cheque and there is no existing debt or liability in this case.

3. This Court while exercising its jurisdiction under Section 482 of Criminal Procedure Code, cannot sift and weigh the evidence i.e., produced by the accused person. These are materials which have to be produced before the Court below at the time of trial. If the petitioner wants to establish the fact that there was no existing debt or liability as on the date when the cheque was deposited by the respondent, the same has to be established only before the Court below in the course of trial. Similarly, the point taken by the petitioner to the effect that the cheque was only given as a security is also an issue which has to be raised before the Court below in the course of trial.

4. It is left open to the petitioner to raise all these grounds before the Court below and the Court below shall consider the same on its own merits in accordance with law. This Court does not find any merits in the Criminal Original petition. Hence this petition is dismissed.



5. In STC No.14 of 2016, there shall be a direction to the Court below to complete the proceedings within a period of three months from the date of receipt of copy of this order. The presence of the petitioner shall be dispensed with and he will appear at the time of 313 of Criminal Procedure Code and on the date of Judgment. On the other occasions, the petitioner shall be represented by his Counsel and the learned Counsel representing the petitioner shall cross examine the witnesses on the same day they are examination in chief.

6. This Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar(CS-III)

To

The Judicial Magistrate,
(Fast Track Court),
Theni.

Cr1.O.P.(MD)No. 9716 of 2016

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KK/RP/SAR-3/04.12.2018/2P-2C