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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on:23.01.2018

Pronounced on:20.02.2018

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Cr1.O.P. (MD) No.14081 of 2013

and

M.P. (MD) .No.1 of 2013

D.Mathiyalagan

... Petitioner

-Vs-

P.Kanagaraj

... Respondent

Prayer: Criminal Original petition filed under Section 407 of Code of Criminal Procedure, to withdraw the case in S.T.C.No.1356/2013 on the file of the Learned Judicial Magistrate II, Sattur to Fast Track Court Cum Judicial Magistrate at Kanjeeppuram.

For Petitioner : Mr.P.Thilakkumar

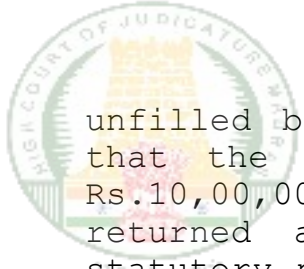
For Respondent : Mr.P.Athimoola Pandian

O R D E R

This Criminal Original petition has been filed by the accused under Section 407 Cr.P.C to transfer the case in S.T.C.No.1356/2013 from the file of the Learned Judicial Magistrate-II, Sattur to Fast Track Court Cum Judicial Magistrate at Kanjeeppuram.

2.Heard both sides.

3.The learned counsel for the petitioner has submitted that the petitioner and the respondent had been running a real estate business in Kanjeeppuram District and they have agreed to invest Rs.10,00,000/- each. He further submitted that the petitioner had invested Rs.10,00,000/- in the real estate business, but the respondent herein had invested only Rs.6,00,000/-. Due to some misunderstanding, the respondent herein has lodged a false complaint before the Uthiramerur Police Station and he had also obtained an

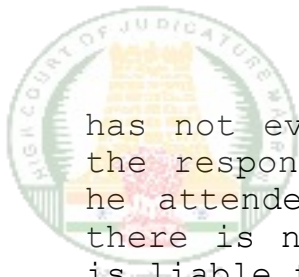


unfilled blank cheque from the petitioner. He further submitted that the respondent herein had filled up the said cheque for Rs.10,00,000/- and presented the same before the Bank and it was returned as 'Funds Insufficient' and thereafter, he issued a statutory notice and filed a private complaint under Section 138 of the Negotiable Instruments Act before the learned Judicial Magistrate- II, Sattur and based on the said complaint, the case was taken on file in S.T.C.No.1356 of 2013. He further submitted that the entire transaction took place only in Kanjeeपुरam District and with a view to harass the petitioner, the respondent herein has filed a complaint before the Judicial Magistrate- II, Sattur. He further submitted that the respondent herein is having money with muscle power and if the petitioner had appeared before the Judicial Magistrate- II, Sattur, his life will be in danger and therefore, he requests to transfer the case in S.T.C.No.1356 of 2013 from the file of the Judicial Magistrate- II, Sattur to the Fast Track Court cum Judicial Magistrate, Kanjeeपुरam.

4.The learned counsel appearing for the respondent has submitted that the petitioner herein has borrowed a sum of Rs.10,00,000/- from the respondent, agreeing to repay the same within 5 months and subsequently when the respondent has demanded to repay the said amount, the petitioner has issued a cheque for Rs.6,00,000/- on 08.01.2013 and he promised to pay the balance amount of Rs.4,00,000/- within 4 months. He further submitted that the respondent has presented the aforesaid cheque in the Indian Overseas Bank, Thayilpatti Branch and the same was returned on 30.01.2013 as 'Funds Insufficient' and hence, the respondent has issued a statutory notice on 25.02.2013 and after receipt of the said notice, the petitioner herein has sent a reply on 10.03.2013 with false allegations. He further submitted that since the respondent/payee has presented the cheque for encashment in the Indian Overseas Bank, situated at Thayilpatti, the Judicial Magistrate- II, Sattur is having jurisdiction to try the above case. He further submitted that the allegations that the respondent is having money and muscle power and if the petitioner appeared before the Judicial Magistrate- II, Sattur, his life will be in danger are false. He further submitted that if the case is transferred to Kanjeeपुरam District, that would cause inconvenience to the respondent to go to Kanjeeपुरam all the way from Sivakasi Taluk and hence, he strongly opposed the petition.

5.Admittedly, the cheque was presented by the respondent herein at Indian Overseas Bank, Thayilpatti Branch for encashment. The said Thayilpatti comes within the jurisdiction of Judicial Magistrate- II, Sattur and as such, the Judicial Magistrate- II, Sattur is having jurisdiction to try the above case.

6.Insofar as the allegation that the respondent herein is having money and muscle power and if the petitioner appeared before the Judicial Magistrate- II, Sattur, his life will be in danger is concerned, there is no material before the Court. If the petitioner



has not even stated in his petition that on any of the occasions, the respondent herein has attempted to attack the petitioner, when he attended the Judicial Magistrate Court of Sattur. Therefore, there is no merit in the aforesaid petition. Hence, this petition is liable to be dismissed.

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7. In the result, this Criminal Original Petition is dismissed. Considering the fact that the petitioner is residing at Kanjeeपुरam District, his personal appearance before the Judicial Magistrate- II, Sattur is dispensed with, except on the hearings, his personal appearance is absolutely necessary. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

The Judicial Magistrate- II, Sattur

+One cc to Mr.P.Thilakkumar, Advocate, SR.No.49971

vs

RL/3C/3P/JC/SAR3/27/2/2018

Order made in

Cr1.O.P.(MD) No.14081 of 2013

20.02.2018