



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.01.2018

Delivered on : 23.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE **P.RAJAMANICKAM**

WEB COPY

Crl.O.P(MD).No.3297 of 2011

and

Crl.M.P.(MD) Nos.1 and 2 of 2011

P.Visuvasam

... Petitioner/Accused

Vs.

R.Nageswaran

... Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 407 of Criminal Procedure Code, to withdraw and transfer the C.C.No.29 of 2010 pending on the file of the leaned Judicial Magistrate, Ilayankudi to the leaned Judicial Magistrate No.VI, Madurai.

For Petitioner : Mr.K.Mahendran

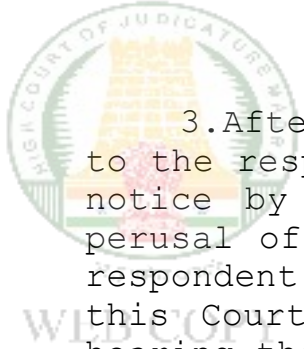
For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed by the accused to transfer the case in C.C.No.29 of 2010 from the file of the leaned Judicial Magistrate, Ilayankudi to the learned Judicial Magistrate No.VI, Madurai.

2.The brief facts are as follows:-

The respondent herein has filed a private complaint stating that the petitioner herein has borrowed a sum of Rs.4,00,000/- on 16.12.2009 and with a view to discharge the said loan, he has issued a cheque dated 16.01.2010. When the said cheque was presented for collection, it was returned with an endorsement that 'drawer made stop payment'. Thereafter, the respondent herein has issued a lawyer's notice dated 22.02.2010. Since the petitioner herein did not make payment even after Lawyer's notice, the respondent herein has filed a private complaint under Section 138 of the Negotiate Instruments Act, before the Judicial Magistrate, Ilayankudi and based on the said complaint the leaned Judicial Magistrate, Ilayankudi has taken the case on file in C.C.No.29 of 2010. After receipt of summons in that case, the petitioner herein has filed the present Criminal Original Petition under Section 407 of Criminal Procedure Code to transfer the said case to the Judicial Magistrate No.VI, Madurai.



3. After admitting this petition, this Court has ordered notice to the respondent. Accordingly, the petitioner has sent a private notice by RPAD and also filed postal acknowledgement. From the perusal of the said postal acknowledgement, it is clear that the respondent has received the notice, but he did not appear before this Court either in person or through counsel. Hence, after hearing the petitioner's side argument, order is being passed.

4. The learned counsel for the petitioner has submitted that the petitioner is aged about 70 years and he is residing at Madurai. He further submitted that at his old age, it is very difficult for the petitioner to travel to the Ilayankudi and hence he is requesting the Court to transfer the case in C.C.No.29 of 2010 from the file of the Judicial Magistrate, Ilayankudi to any of the Judicial Magistrate Court at Madurai.

5. Taking into consideration, the age of the petitioner and also the submissions made by the learned counsel for the petitioner that it is very difficult for the petitioner to travel to Ilayankudi from Madurai. I am inclined to allow this Criminal Original Petition.

6. In the result, this Criminal Original Petition is allowed. The case in C.C.No.29 of 2010 is withdrawn from the file of the Judicial Magistrate, Ilayankudi and transferred to the Fast Track Court No.I (Magistrate Level), Madurai for disposal in accordance with law. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Ilayankudi.
2. The Fast Track Court No.I (Magistrate Level),
Madurai.

+1cc to Mr.K.Mahendran, Advocate Sr.No.43427

GSP
VB/KKR/SAR1/02.02.2018/2P/4C