



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1. OP (MD)No.23388 of 2013

R.Sakthivel

... Petitioner

Vs.

1.R.Thirupathy Venkateswaran

2.P.Saravana Karthick

... Respondents

Prayer : This Criminal Original Petition is filed Under Section 482 of Criminal Procedure Code to set aside the returning order passed in Cr.MP.No.Unnumbered/2012, dated 28.12.2012 on the file of the Judicial Magistrate, Sivakasi, returning the complaint filed by the petitioner u/s 200 of Criminal Procedure Code praying for a direction u/s 156(3) of Criminal Procedure Code.

For Petitioner : Mr.J.Jeyakumaran
For Respondents : No appearance

ORDER

The petitioner is facing criminal trial under Section 138 of the Negotiable Instruments Act, 1881 before the Judicial Magistrate, Sivakasi and Rajapalayam in CC.No.361 of 2012 and 179 of 2016.

2.The case in C.C.No.361 of 2012 has been stayed by this Court. The petitioner herein alleges that signed blank cheques which he had kept in his office premises were stolen by his own brother and handed over to the second respondent herein and the same was misused. Therefore, the petitioner lodged a private complaint before the Judicial Magistrate, Sivakasi. The learned Judicial Magistrate, Sivakasi however did not accede to the petitioner's request for issuing directions under Sections 156(3) of Cr.PC. The said order rejecting the petitioner's complaint is under challenge in this Criminal Original Petition.

3.This Court is of the view that the contentions now made by the petitioner herein can very well be adjudicated in the regular trial under Section 138 of Negotiable Instruments Act, 1881. If the petitioner succeeds in establishing his defence and proves to the satisfaction of the Trial Court that the cheques which are the subject matter of aforesaid CC's were in fact stolen and misused, the present complaint can very well be revived.



4. With this observation and liberty, this Criminal Original Petition is closed.

Sd/-

Assistant Registrar (CS-I)

WEB COPY

**(*) Added vide Court order
dated 14.08.2018.**

/True Copy/
sd/-

Assistant Registrar (T&P)

Sub Assistant Registrar (CS-I)

(*) Registry to Note:

Registry is directed to return the original complaint filed by the petitioner herein for representation before the trial Magistrate.

To

(*) To be Substituted to the order dated 03.04.2018, already despatched on 06.07.2018.

The Judicial Magistrate,
Sivakasi.

+1cc to Mr. J. Jeyakumaran, Advocate in SR. No. 59541

skm
MK/KKR/SAR 2/05.07.2018/2P/3C

SM
DS/SKN-RSK/SAR-1 : 16.08.2018: 2P/3C

Cr1. OP (MD) No. 23388 of 2013
03.04.2018