

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.1481 of 2019
and CrI.M.P.Nos.926 & 927 of 2019

P.Mallikarjuna Rao

... Petitioner

Vs.

L.Suresh Babu

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings pending against the petitioner in C.C.No.177 of 2017 on the file of the learned Judicial Magistrate-I, Chengalpattu.

For Petitioner : Mr.P.K.Ganesh

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.177 of 2017 on the file of the learned Judicial Magistrate-I, Chengalpattu.

2. The respondent has filed a private complaint against the petitioner for an offence under sections 138(b) and 142 of the Negotiable Instruments Act.

3. The learned counsel for the petitioner submitted that in the complaint, it is stated that the cheque is dated 19.06.2017 and it was presented on 06.07.2017 and it was returned on 07.07.2017. However, in the sworn statement before the Court below, the complainant has stated that the cheque was given on 19.12.2016 and the same was presented on 06.07.2017. By pointing out to this discrepancy, the learned counsel submitted that a cheque which was not in force has been presented and the same has been dishonoured and the same will not constitute an offence under section 138(b) and 142 of the Negotiable Instruments Act.

4. The learned counsel for the petitioner would further submit that the cheque that was given as a security, has been misused by the respondent and the present complaint has been filed.

5. The grounds raised by the petitioner are all factual in nature and it requires appreciation of evidence. This Court cannot conduct a roving enquiry in exercise of its jurisdiction under section 482 Cr.P.C. It is left open to the petitioner to raise all these grounds before the Court below and Court below shall consider the same on its own merits and in accordance with law.

6. The learned counsel for the petitioner submitted that the petitioner is a native of Nellore and therefore, his presence may be dispensed with before the Court below.

7. Taking into consideration the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel before the Court below. The petitioner shall be present before the Court below at the time of questioning under Sections 252 Cr.P.C and 313 Cr.P.C and at the time of passing of the judgement. The counsel representing the petitioner shall cross examine the witness on the same day, they are examined in Chief.

8. This Criminal Original Petition is disposed with the above direction and 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, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

mpa/rka

To

1.The Judicial Magistrate-I,
Chengalpattu.

2.The Public Prosecutor
High Court of Madras

+1cc to Mr.P.K.Ganesh, Advocate, S.R.No.5021

Cr1.O.P.No.1481 of 2019
and Cr1.M.P.Nos.926 & 927 of 2019

rrs 11/02/2019