



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.573 of 2018

and

CRL.MP.No.6806 of 2018

V.Manavalan

.. Petitioner

Vs.

Madhan Raheja

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to set aside the impugned order dated 18.04.2018 in Crl.M.P.No.321 of 2018 in C.C.No.3240 of 2013 on the file of XIX Metropolitan Magistrate, Chennai, consequently direct the trial Court, to recall the process issued by the trial Court based on the invalid complaint to the petitioner.

For Petitioner : K.N.Nataraj
for M/s.Duraikannan

For Respondent : No Appearance

O R D E R

This Criminal Revision Case has been filed to set aside the impugned order dated 18.04.2018 in Crl.M.P.No.321 of 2018 in C.C.No.3240 of 2013 on the file of XIX Metropolitan Magistrate, Chennai.

2. The respondent/complainant filed the private complaint against the revision petitioner/accused through Power of Attorney under Section 200 Cr.P.C., for the offence under Section 138 of Negotiable Instruments Act and the same was taken on file by the learned XIX Metropolitan Magistrate, Chennai, in C.C.No.3240 of 2013. During the pendency of the complaint, the revision petitioner/accused filed a petition under Section 245 Cr.P.C in Crl.M.P.No.321 of 2018 for discharging him from the complaint filed by the respondent/complainant. The said petition was dismissed by the learned XXI Metropolitan Magistrate, Chennai, on 18.04.2018. Challenging the said dismissal order, the accused is before this Court by way of this Criminal Revision.



3. The main contention raised by the learned counsel for the petitioner is that the complaint was filed through the Power of Attorney, which is not maintainable. The learned counsel would further submit that the vakalat was also signed by the Power of Attorney only. The revision petitioner/accused has filed a petition to discharge him and the same was not considered by the learned Magistrate.

4. Heard the learned counsel for the petitioner and perused the materials on records.

5. It is not in dispute that the private complaint has been filed through the Power of Attorney against the revision petitioner and the same was also taken on file in C.C.No.3240 of 2018. During the pendency of the complaint, the revision petitioner/accused filed CrI.MP.No.321 of 2018 for discharging him from the private complaint. The Power of Attorney was also produced along with the private complaint. Whether the Power of Attorney has personal knowledge about the transaction between the parties. The complainant filed the vakalat and also given a valid Power of Attorney and the same can be decided only after recording the evidence and during the course of trial. While taking the complaint on file, the Court below has to see whether prima facie case has been made out to proceed further as against the accused. Probative value of the averments and documents need not gone into at this stage. The Court below, after considering the entire materials, dismissed the discharge petition in CrI.M.P.No.321 of 2018 in C.C.No.3240 of 2013. Therefore, this Court does not find any merit in this revision and the same is liable to be dismissed.

6. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kmi
To
1.The XIX Metropolitan Magistrate,
Chennai.

Copy to: The Section Officer,
Criminal Section, High court, Madras.

CrI.R.C.No.573 of 2018

VSNII(CO)
CB(06/01/2020)