

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.No.10236 of 2019

and

CrI.M.P.Nos.5277 & 5278 of 2019

K.R.Gopidurai

.. Petitioner

Vs

Dr.K.Senthil Rajan

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C. to quash the proceedings as against the petitioner in C.C.No.1 of 2019 for the offence under Section 138 of the Negotiable Instruments Act, pending on the file of learned Judicial Magistrate, Fast Track Court, Ambattur.

For Petitioner : Mr.S.Ramajayam

O R D E R

This petition has been filed seeking to quash the proceedings as against the petitioner in C.C.No.1 of 2019 for the offence under Section 138 of the Negotiable Instruments Act, pending on the file of learned Judicial Magistrate, Fast Track Court, Ambattur.

2.The respondent has initiated proceedings against the petitioner for an offence under Section 138 of Negotiable Instruments Act.

3.The learned counsel for the petitioner submitted that the respondent was in fact added as a Director in the Company and he was also permitted to operate the bank account. The respondent misused his power and misappropriated the amount and had transferred the amount to his own account and to the account of his wife. On being questioned the respondent had also resigned from the post of Director in the year 2017. The respondent had also stealthily taken away the cheques and forged the same and now misused it as against the petitioner.

4.The learned counsel for the petitioner further submitted that there are absolutely no materials to show that the respondent has lent a sum of Rs.1 crore to the petitioner except a bald statement made in the complaint.

5.The learned counsel for the petitioner further submitted that the entire proceedings is an abuse of process of law and therefore the same requires interference of this Court under Section 482 of Cr.P.C.

6.This Court has carefully considered the submission made by the learned counsel for the petitioner and also the materials placed on record. This Court finds that the issue raised by the petitioner are purely factual nature and the same cannot be gone into by this Court in exercise of jurisdiction under Section 482 of Cr.P.C. All the grounds raised by the learned counsel for the petitioner will have to be raised before the Court below in the course of trial and if requires appreciation of evidence for coming to final conclusion.

7.The learned counsel for the petitioner requested that this Court to dispense with the appearance of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with.

8.The learned counsel representing the petitioner shall cross examine the witnesses on the same day when they are examined in chief and the petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C. and at the time of passing of the final judgment.

9.This Court has not expressed any opinion on the merits of the case and it is left open to the petitioner to raise all the grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law.

11.This Criminal Original Petition is disposed of with the direction to the Court below to complete the proceedings in C.C.No.1 of 2019, pending on the file of the learned Judicial Magistrate, Fast Track Court, Ambattur within a period of four months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Joint Registrar (Judicial)

//True Copy//

Sub Assistant Registrar

vs

To

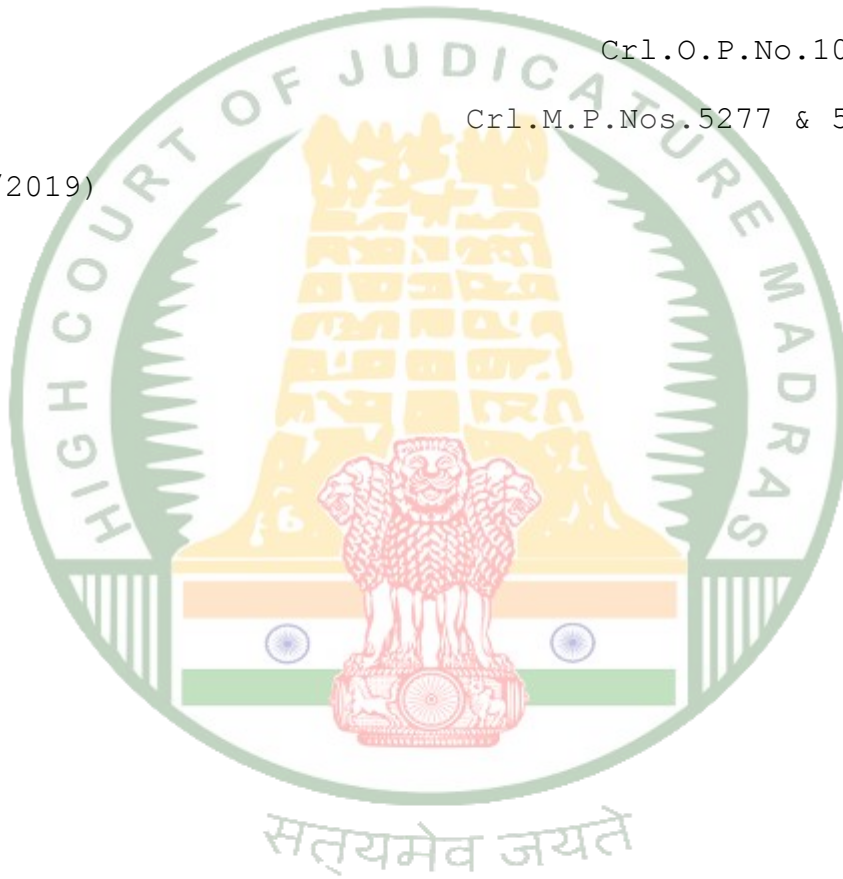
1. The Judicial Magistrate,
Fast Track Court,
Ambattur, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.S.Ramajeyam, Advocate, S.R.No.49768

Crl.O.P.No.10236 of 2019
and
Crl.M.P.Nos.5277 & 5278 of 2019

NRL (CO)
SSM(18/06/2019)



WEB COPY