

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.9919 of 2019 and
CrI.M.P.No.5160 of 2019

T.Ravi

... Petitioner

Vs.

1.T.Kamakshi
W/o.T.Chandrasekar
Managing Partner of M/s.Vashi Pari Villas
a registered Partnership Firm
having its registered office at B-C
"V" Block, Bajaj Apartments
5th Street, Nandanam Extension
Nandanam, Chennai 600 035

2.T.Chandrasekar
S/o.Brahmaiha Gupta
Partner of M/s.Vashi Pari Villas
a registered Partnership Firm
having its registered office at B-C
"V" Block, Bajaj Apartments
5th Street, Nandanam Extension
Nandanam, Chennai 600 035

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.239 of 2009 pending on the file of IX Metropolitan Magistrate Court, Saidapet, Chennai and quash the above proceedings by allowing this petition.

For Petitioner : Mr.P.Kumerasan

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ORDER

This Criminal Original Petition has been filed by the petitioner under Section 482 Cr.P.C. to call for the records in C.C.No.239 of 2009 pending on the file of IX Metropolitan Magistrate Court, Saidapet, Chennai and quash the above proceedings by allowing this petition.

2.It is seen that the complaint has been filed by the respondents under Section 200 Cr.P.C. for an offence under Section 138 of Negotiable Instruments Act as against the petitioner. There are two complaints in C.C.No.239 of 2009. In this regard, the learned counsel for the petitioner relied upon the decision of this Court reported in (2011) 4 MLJ (Cr1) 198 (Maheswari & Others V. Jayanthi & another), the relevant portion of which reads as follows:

"14.Section 200 of the Code of Criminal Procedure contemplates examination of the complainant. A Magistrate taking cognizance of an offence on complaint shall examine on both the complainant. If there are more than one complaint, it will be difficult for the Magistrate to form an opinion for taking cognizance of an offence. This applies to the power of attorney of two complaints also. Therefore, the joint complaint given by two persons is not maintainable and liable to be quashed".

3. In the case on hand the respondents jointly filed a complaint punishable under Section 138 of Negotiable Instruments Act as against the petitioner. Therefore, the above judgement cited by the learned counsel appearing for the petitioner is squarely applied to the case on hand. The learned Magistrate ought to have been seen at the time of taking cognizance whether the complaint has been lodged by a single person or two persons. Without even seeing the same, the learned Magistrate mechanically have taken cognizance as against the petitioner. Therefore, the present complaint is vitiated and it cannot be sustained as against the petitioner.

4.Accordingly, this Criminal Original Petition stands allowed and the proceeding in C.C.No.239 of 2009 pending on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

kas

To.

1. The IX Metropolitan Magistrate Court
Saidapet, Chennai

2. do thro' The Chief Judicial Magistrate,
Egmore, Chennai.

+1 cc to Mr.S.Poovendhan, Advocate, Sr.No. 36647

Crl.O.P.No.9919 of 2019
and
Crl.M.P.No.5160 of 2019

SV (CO)
CSL/01.06.2019



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