

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.440 of 2019
and Crl.M.P.Nos.6626 & 6627 of 2019

Pulivinod Kumar Reddy,
S/o. Ramalinga Reddy,
Konda Reddy Compound,
Prakasam Road,
Anantapur District-515 001.
Andhra Pradesh.

... Petitioner/Accused

Vs.

Mr.Kathiresan,
S/o.Muthaiya,
Senior Manager of Subhashree
Logistics LLP,
Ariyalur Division,
Ariyalur Taluk and District.

... Respondent/Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
against the order dated 18.03.2019 in Crl.M.P.No.749 of 2019 in
S.T.C.No.11 of 2017 on the file of the Judicial Magistrate No.I,
Ariyalur.

For Petitioner : Mr.P.Tamilavel

ORDER

This criminal revision has been preferred seeking to set
aside the order dated 18.03.2019 in Crl.M.P.No.749 of 2019 in
S.T.C.No.11 of 2017 on the file of the Judicial Magistrate Court
No.I, Ariyalur.

2 For the sake of convenience, the petitioner and the
respondent are referred to as the accused and the complainant
respectively.

3 The complainant has initiated a prosecution in
S.T.C.No.11 of 2017 before the Judicial Magistrate-I, Ariyalur,
against the accused under Section 138 of the Negotiable
Instruments Act, 1881 (for brevity "the NI Act").The accused
filed an application in Crl.M.P.No.749 of 2019 in S.T.C.No.11 of
2017 under Section 258 Cr.P.C., which has been dismissed by the
Trial Court on 18.03.2019. Aggrieved over the same, the present

criminal revision petition has been preferred by the accused before this Court.

4 Heard Mr.P.Tamilavel, learned counsel for the accused.

5 The learned counsel for the accused submitted that there are fundamental flaws in the statutory notice that has been issued by the complainant. Therefore, the complaint is ill conceived.

6 The proceedings under Section 138 of the NI Act is not under Chapter XIX of Cr.P.C. Therefore, the petition for discharge cannot be maintained. The Supreme Court has laid down certain guidelines in the case of Indian Bank Association vs. U.O.I. [(2014) 5 SCC 590], for disposal of a complaint under Section 138 of the NI Act in a time bound manner. Further, disputed questions of fact cannot be gone into at the threshold.

7 Hence, this criminal revision is dismissed with liberty to the petitioner to raise all the points before the Trial Court in S.T.C.No.11 of 2017, during trial, after his questioning under Section 251, Cr.P.C. The petitioner is directed to appear before the Trial Court within two weeks from the date of receipt of a copy of this order and execute a bond for Rs.5,000/- (Rupees five thousand only) under Section 88, Cr.P.C. with two sureties to the satisfaction of the Magistrate concerned and participate in the trial. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

nsd
To

The Judicial Magistrate No.I, Ariyalur.

+1 cc to Mr.P.Tamilavel, Advocate, Sr.No. 44729

Cr1.R.C.No.440 of 2019

CSL/27.06.2019