

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.14373 of 2019
and
Crl.M.P.Nos.6981 and 6984 of 2019

V.Vijayaragavan

.... Petitioner/Accused

Vs.

R.Jayaraman

.... Respondent/Complainant

Prayer: This Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in C.C.No.650 of 2018 pending on the files of the learned Judicial Magistrate -I, Fast Track Court, at Coimbatore and quash the complaint and consequently, the proceedings initiated in furtherance thereto in C.C.No.650 of 2018.

For Petitioner : Mr.Bharadwajaramasubramaniam.R

ORDER

This petition has been filed challenging the private complaint initiated by the respondent against the petitioner herein for an offence under Section 138 of the Negotiable Instruments Act.

2. The learned counsel for the petitioner has urged several grounds and has submitted that the entire proceedings is an abuse of process of law and there is no existing debt or liability for the respondent to sustain the complaint filed under Section 138 of the Negotiable Instruments Act. The learned counsel for the petitioner further submitted that the cheque amount is more than the amount that is actually due from the petitioner even as per the complaint.

3. This Court has carefully considered the submission made by the learned counsel for the petitioner and also the materials placed on record.

4. All the contentions raised by the learned counsel for the petitioner are purely factual in nature and the same cannot be gone into by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. Those facts will have to be considered in the course of the proceedings and it involves appreciation of evidence. Therefore, the petitioner is at liberty to raise all the issues before the Court below and the Court below shall consider the same on its own merits and in accordance with law.

5. This Court is not inclined to entertain this petition at this stage. The learned counsel for the petitioner requested this Court to dispense with the personal appearance of the petitioner.

6. Taking into consideration of the facts and circumstances of the case, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel before the Trial Court who shall cross examine the witnesses on the same day, they are examined in chief. The petitioner shall be present before the Court at the time of questioning under Section 313 Cr.P.C. and at the time of final judgment.

7. This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.No.650 of 2018 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate -I,
Fast Track Court,
Coimbatore.

2. The Public Prosecutor,
Madras High Court.

+1cc to M/s.R.S.Diwaragar, Advocate sr.46025

Cr1.O.P.No.14373 of 2019
and

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nr 11/07/2019