

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.6162 of 2017
and
Cr1.M.P.No.4597 of 2017

S.Rajkumar Petitioner/Accused
Vs.

N.S.Ziauddin Respondent/Complainant

PRAYER:Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records comprised in C.C.No.9705/2009 pending on the file of the Fast Track Court at Saidapet and quash the same.

For Petitioner : Mr.S.Venkatesan
For Respondent : Mr.N.Kishore Kumar

O R D E R

The Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records comprised in C.C.No.9705/2009 pending on the file of the Fast Track Court at Saidapet and quash the same.

2.The learned counsel for the petitioner would submit that initially a complaint was filed by the respondent for the offence under Section 138 of Negotiable Instrument Act as against the petitioner in the year 2009 and the same has been taken cognizance in C.C.No.9705/2009. Thereafter, on 03.02.2015 the respondent / complainant executed an assignment deed in favour of one S.Mani including the liability which is the subject matter in C.C.No.9705/2009 and therefore, the respondent has no locus to continue the criminal complaint in C.C.No.9705/2009. Since he has lost his legal rights to continue the proceedings in view of the deed of assignment, only the assignee can continue the proceedings as against the petitioner. Accordingly, prays for quashing of the C.C.No.9705/2009.

3.The learned counsel for the respondent submitted that on the basis of the assignment deed executed by the respondent in favour of one S.Mani the respondent is also taking steps to substitute the said S.Mani in the place of the respondent to continue the proceedings in C.C.No.9705/2009.

4.Heard the learned counsel on either side.

5.It is seen that the petitioner is facing the proceedings in C.C.No.9705/2009 taken cognizance by the Trial Court for the offence under Section 138 of Negotiable Instruments Act initiated by the respondent. Thereafter, on 03.02.2015, the respondent executed assignment deed in favour of one S.Mani including the liability which is the subject matter in C.C.No.9705/2009. Therefore, the learned counsel for the petitioner submitted that the respondent cannot continue the proceedings as against the petitioner and the complaint as against the petitioner is not sustainable.

6.Considering the above circumstances, this Court directs the respondent to take appropriate steps to file appropriate petition for substitution of assignee within a period of two weeks from the date of receipt of a copy of this order in C.C.No.9705/2009 failing which the entire proceedings instituted by the respondent as against the petitioner in C.C.No.9705/2009 stands quashed without any further reference to the Court.

7.With the above direction, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kas
To

1.The Fast Track Court
Saidapet

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Kishore Kumar , Advocate SR.No. 59318
+1cc to Mr.S.Venkatesan , Advocate SR.No. 23550

Cr1.O.P.No.6162 of 2017
and
Cr1.M.P.No.4597 of 2017

A.SK(29/03/2019)