

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.27535 of 2018

and

Crl.M.P.No.15888 of 2018

C.S.Prakash

: Petitioner

Vs.

S.Satheesh Kumar

: Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in S.T.C. No.105 of 2016 on the file of the Judicial Magistrate Fast Track No.I, Erode, Erode District quash the entire proceedings.

For Petitioner : M/s.V.Sasi Rekha

For Respondent : No appearance

ORDER

This petition has been filed seeking to quash the proceedings in S.T.C. No.105 of 2016, pending on the file of the learned Judicial Magistrate (Fast Track Court No.I), Erode.

2.The respondent has initiated proceedings under Section 138 of Negotiable Instruments Act, against five accused persons. The petitioner has been added as A5.

3.A reading of the complaint reveals the fact that the respondent had business dealings with A1 company and in the course of transaction, the accused company owed a sum of Rs.6,97,500/- to the respondent and towards the said liability, a cheque executed by A1, signed by A2, who is the Managing Director of the company. This petitioner has been added as A5 only on the ground that he was the Manager of the company during the relevant point of time.

4.This Court ordered notice to the respondent and also permitted the counsel for the petitioner to take private notice. The private notice has been served and the name of the respondent has also been printed in the cause list. The respondent is neither present in person nor through counsel and therefore, this Court proceeds to decide this petition on its own merits.

5.The learned counsel for the petitioner would submit that the petitioner has been added as accused in the complaint only on the ground that he was the Manager of A1 company during the relevant point of time. The learned counsel submitted that the allegations made in the complaint do not satisfy the requirements of Section 141 of the Negotiable Instruments Act and the complaint nowhere states as to how and in what manner the petitioner is engaged in the running of the day to day affairs of the A1 company. The learned counsel therefore submitted that the complaint insofar as the present petitioner is concerned, is an abuse of process of Court and the same needs to be interfered by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

6.It is seen from the complaint that this petitioner has been added as an accused only on the ground that this petitioner is the Manager of the company. Except extracting the provisions of Section 141 of the Negotiable Instruments Act, there is absolutely no allegation in the complaint regarding this petitioner as to how and in what manner this petitioner is in-charge of running the affairs of the company. Useful reference can be made to the recent judgment passed by this Court in the case of Anil Pathak Vs. M/s.Laresn and Toubro Limited in CrI.O.P. No.3389 and 3390 of 2018, dated 17.12.2018. The said judgment squarely applies to the facts of the present case.

7.In view of the above, this Court is of the considered view that the complaint insofar as the petitioner is concerned, do not satisfy the ingredients of Section 141 of the Negotiable Instruments Act and the complaint needs to be quashed insofar as this petitioner is concerned.

8.In the result, the proceedings in S.T.C. No.105 of 2016, on the file of the Judicial Magistrate Fast Track No.I, Erode District, is hereby quashed insofar as this petitioner is concerned and accordingly, this Criminal Original Petition is allowed. The Court below is directed to proceed further and complete the proceeding in S.T.C. No.105 of 2016, insofar as the other accused persons are concerned within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ia/vsg1

To :

1.The Judicial Magistrate,
(Fast Track No.I),
Erode, Erode District.

2.-do- Thro' Chief Judicial Magistrate,
Erode.

+lcc to Mr.V.Sasi Rekha, Advocate, S.R.No.1518

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RK(CO)

rrs 01/02/2019