

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.29638 of 2018
and
CrI.MP.Nos.17410 & 17411 of 2018

R.Subburaj

..Petitioner/Accused

Vs.

G.Kannan

..Respondent/Complaint

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the C.C.No.164 of 2018, on the file of the Judicial Magistrate No.I, Mayiladuthurai and to quash the same.

For Petitioner : Mr.S.Sundaresan

For Respondent : No Appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.164 of 2018, pending on the file of the learned Judicial Magistrate No.I, Mayiladuthurai.

2.The respondent has filed a complaint against the petitioner for an alleged offence under Section 138 of the Negotiable Instruments Act.

3.The learned counsel for the petitioner submitted that admittedly, the cheque has been issued in the name of the Company- Pappa Builders Limited, and it has been signed by the petitioner in his capacity as a Director. Ultimately, Statutory Notice was not issued to the Company and the Company was not made as an accused in the complaint. Therefore, the complaint has to be quashed on this simple ground.

4.The learned counsel for the petitioner in order to

substantiate his arguments relied upon the judgment of the Hon'ble Supreme Court in Anil Hada .Vs. Godfather Travels And Tours Private Limited reported in [2012 5 SCC 661] and Himanshu .Vs. B.Shivamurthu and Another reported in [2019 1 CTC 689].

5.The respondent has been served the notice and the name has also been printed in the cause list. There is no representation for the respondent either in person or through counsel.

6.The issue raised by the learned counsel for the petitioner is directly covered by the judgments of the Hon'ble Supreme Court, referred supra. The 138 complaint cannot be maintained against the Director of the Company without making the Company as an accused since it will be in total violation of the mandatory requirement under Section 141 of the Negotiable Instruments Act.

7.The proceedings pending before the Court below has to be quashed on this ground alone. Accordingly, the proceedings in C.C.No.164 of 2018, before the Court below is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

KP

To

Judicial Magistrate No.I,
Mayiladuthurai.

+1cc to Mr.S.Sundaresan Advocate, S.R.No.68815

BS (CO)
CB(04/09/2019)

Cr1.O.P.No.29638 of 2018