



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE
Cr1.O.P.[MD]No.1669 of 2019

WEB COPY

CT.Kalpagam : Petitioner/Complainant
Vs.
A.Ramaiah : Respondent/Accused

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the return order in unnumbered C.C.No.Nil of 2018 dated 04.12.2018 and to direct the Fast Track Court, Karaikudi to number the petitioner's complaint filed under Section 138 and 142 Negotiable Instruments Act and Section 420 of IPC and act in accordance with law.

For Petitioner : Ms.P.K.Kalaiyarasi Bharathi

O R D E R

The present petition is filed seeking a direction to the learned Magistrate to take the complaint preferred by the petitioner under Section 138 r/w 142 Negotiable Instruments Act on file.

2.The learned counsel for the petitioner took this Court to the order of the learned Magistrate, dated 04.12.2018, wherein it is recorded that "even the accused has admitted his liability, the complaint is not maintainable".

3. This is not the case under Order X C.P.C., but one involving penal consequences. If the accused admitted his liability, it should meet with penalty and the complainant should not be penalized by a refusal to take the complaint on to file. Even under Order X C.P.C., in terms of admission of liability a decree has to be passed and no Court returns the plaint because of the defendant has admitted his liability.

4. Considering all the manner by which the complaint is dealt with by the trial Court, this Court now directs the petitioner to represent his complaint before the trial Court, whereupon the trial Court shall apply its judicial mind and ascertain whether the ingredients under Section 138 of the Negotiable Instruments Act are present, if the complaint is made in time and if not, if any application for condoning the delay is made, and then decide whether the petition must be taken on its file.



5. With the above direction, this criminal original petition is disposed of.

Sd/-

Assistant Registrar (cs-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judge,
Fast Track Court,
Karaikudi.

+1cc to M/s.P.K.Kalaiyarasi Bharathi,Advocate, SR.No.53175

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SP/29.04.2019/2P/3C