



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P.(MD)No.3028 of 2019
and
Crl.M.P.Nos.1682 & 1683 of 2019

1. Karuppaiah
2. Devi

... Petitioners/Accused Nos.1&2

Vs

Nallamuthu

... Respondent/Complainant

PRAYER: This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for all records in S.T.C.No.385 of 2018 on the file of the learned Judicial Magistrate No.II, Ramanathapuram and quash the same.

For Petitioners : M/s.N.Ananthapadmanabhan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.385 of 2018, on the file of Judicial Magistrate No.II, Ramanathapuram wherein the respondent preferred a complaint under Section 138 of Negotiable Instruments Act.

2. Heard the learned counsel for the petitioner. This Court paid its anxious consideration to the submissions made and perused the materials available on record.

3.The learned counsel for the petitioner has vehemently argued that the complaint does not disclose the existence of any outstanding liability or that the cheque involved in the case was issued towards discharge of its outstanding liability. He would however, add that no where the complainant says the word 'due'. However, on a close scrutiny of paragraph No.5 of the complaint r/w Section 139 of Negotiable Instruments Act, this Court does find that a *prima facie* case does exist to institute the complaint. Any number of defences, which the complainant may/can have, could be posed only during trial when he obtains an opportunity to rebut the presumption under Section 139 of Negotiable Instruments Act.



4. This Court finds no merit in the present petition and the same is dismissed. However, no observation made herein shall be construed as binding the trial Court when the matter is finally disposed of after due trial.

5. The trial Court is directed to complete the trial within a period of six months from today. In the meantime, the petitioner's appearance is dispensed with, unless the trial Court specifically insists his presence, for which, the learned counsel for the petitioner shall take responsibility and no summons need to be issued by the trial Court to ensure the appearance of the petitioner.

6. In fine, this Criminal Original Petition is dismissed. Consequently, connected CrI.M.P.(MD)Nos.1682 and 1683 of 2019 are closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate No.II,
Ramanathapuram.

DSS/TA
TE : 03/04/2019 : 2P/2C

CrI.O.P. (MD)No.3028 of 2019
27.02.2019