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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL.O.P.(MD) No. 1874 of 2016
and CRL.M.P.[MD] Nos. 957 & 958 of 2016

Muthuramalingam
S/o.Karuppiyah C/o.Hotel Prassanna
Sivapuri Main Road, Kothangudi Thoppu,
Annamalai Nagar, Chidhambaram,
Cudalore District.

The respondent herein wrongly mentioned the name & address of the petitioner in cause title of the complaint is as follows.

Ramalingam
Old No.9/3, New No.24,
Muthubala Mess, Sriram Nagar,
Kottaiyur, Karaikudi Taluk,
Sivagangai District.
(Pallathur Police Station)

.... Petitioner/Accused

Vs.

Chandran

... Respondent/Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the S.T.C. No. 65 of 2015, on the file of the Fast Track Court, Karaikudi and quash the same.

For Petitioner : Mr.K.Baalasundharam
For Respondent : Mr.K.Ramesh Kumar

ORDER

This Criminal Original Petition has been filed to quash the proceedings pending against the petitioner in S.T.C. No.65 of 2015, on the file of the Fast Track Court, Karaikudi.

2. This complaint in S.T.C. No.65 of 2015 was filed by the Respondent/Complainant as against the petitioner, for the offence punishable under Section 138 of the Negotiable Instruments Act.



3. According to the complainant, on 16.11.2014, the petitioner had borrowed a sum of Rs.4,30,000/- (Rupees Four Lakhs Thirty Thousand Only) and he has issued a cheque for the said sum, drawn in favour of Axis Bank, Karaikudi Branch, dated 01.03.2015. On presenting the cheque was returned for the reason of 'Account closed', by memo, dated 03.03.2015. After the same, the complainant took a statutory notice, dated 10.03.2015 and the same was returned on 18.03.2015, with an endorsement 'intimation served' 'unclaimed' to sender. The petitioner has not paid the said sum, even after the statutory notice and therefore, the alleged complaint was filed by the complainant, under Section 138 of the Negotiable Instruments Act.

4. The petitioner has filed this petition questioning the identity of 'Ramalingam' that the petitioner name is Muthuramalingam and he has nothing to do that the accused Ramalingam in S.T.C. NO.65 of 2015. According to the petitioner, he never opened any account in Axis Bank, Karaikudi Branch and he is totally stranger to this case in S.T.C. No.65 of 2015.

5. The learned counsel for the complainant would submit that the petitioner is widely called as 'Ramalingam' and he was running a business and he has approached himself as Ramalingam and for his business transaction, he has borrowed the said amount and also issued the cheque in question and whether the cheque has been issued or not has been decided only during the trial.

6. Considering the rival submissions, this Court is of the view that the grounds raised by the petitioner has to be decided only by the Trial Court during the trial. However, expressing anything on the grounds raised by the petitioner, this petition is dismissed with liberty to the petitioner to raise all these grounds before the Trial Court.

7. Accordingly, the Criminal Original Petition is dismissed. The learned counsel for the petitioner seeks indulgence of this Court to dispense with the personal appearance of the petitioner before the Trial Court, as he is working as a Coolie at Chennai and it is very difficult for him to attend the hearing before the Trial Court. Since the identity itself is questioned in this matter, this Court is not inclined to grant the relief of dispensed with for the personal appearance before the Trial Court, however, the Trial Court shall consider the same, if the petitioner files an affidavit before the concerned Trial Court that he will not dispute the identity and also cooperate for the trial by appearing before the trial Court as and when required.

8. This complaint was filed in the year 2015 and considering the age of the complainant, I am inclined to issue directions to the Fast Track Court, Karaikudi, to expedite the trial in S.T.C. No.65 of 2015 and to conclude the trial as early as possible, within a period of three (3) months, from the date of receipt of copy of this order.



9. With these directions, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitioners are closed.

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Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

To

1. The Judge,
Fast Track Court, Karaikudi.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- +1 CC to M/s.K.BAALASUNDHARAM, Advocate
(SR-51370[F] dated 04/03/2019)

Crl.O.P. (MD) No.1874 of 2016
01.03.2019

ES/08.04.2019/4P/4C