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CRL.O.P.(MD).No.2127 of 2018 :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P. (MD) .Nos.2127 and 2172 of 2018

and

CRL.M.P(MD)Nos.944 and 972 of 2018

CRL.O.P. (MD) .No.2127 of 2018 :

S.P.Arunagiri

... Petitioner

Vs.

S.P.V.M.Thiyagarajan

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to withdraw the case in STC.No.284 of 2017 on the file of the learned Judicial Magistrate Court No.VI, Madurai and transfer the same to Judicial Magistrate Court, Ambattur.

CRL.O.P. (MD) .No.2172 of 2018 :

K.Baskar

... Petitioner

Vs.

S.P.V.M.Thiyagarajan

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to withdraw the case in STC.No.145 of 2016 on the file of the learned Judicial Magistrate Court No.VI, Madurai to Judicial Magistrate Court, Ambattur.

(in both petitions)

For Petitioner

: Mr.T.Muruganantham

(in both petitions)

For Respondent

: Mr.L.George Paul Anto

ORDER

These criminal original petitions have been filed for transfer of STC.No.284 of 2017 and STC.No.145 of 2016 from the file of learned Judicial Magistrate No.VI, Madurai, to the file of learned Judicial Magistrate Court, Ambattur, Chennai.



2.The learned counsel for the petitioners would submit that the entire transactions are at Chennai and the alleged cheques were issued at Chennai. The respondent is residing at Madurai and presented the cheque before the concerned Bank at Madurai. The complaints have been lodged at Madurai. Further he submitted that he also filed a suit in O.S.No.488 of 2015, for redemption of mortgage, on the file of the Subordinate Court, Poonamalle as against the respondent and the same is pending. Therefore, he sought for transfer of both the cases to the file of Judicial Magistrate Court, Ambattur, Chennai.

3.The learned counsel for the respondent submitted that the respondent having jurisdiction to file a complaint before the Judicial Magistrate, at Madurai since the respondents is residing at Madurai and also had bank account with the Indian Overseas Bank, Madurai. After issuance of the cheques, he presented the same for collection with his bank, the same has been returned with an endorsement as 'insufficient funds'. Therefore, he issued statutory notice to the respondent, in which, he did not disclose any of the allegation made in these petitions. The cheques have been presented without any jurisdiction of the respondent. Now in order to prolong the trial, the present petition has been filed. He also submitted that the trial is pending for the past three years, therefore, he sought for dismissal of these petitions.

4.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5.The petitioners are accused in both the cases. The respondent/defacto complainant is one and the same in both the cases. The respondent is residing at Madurai and he also having bank account at Indian Overseas Bank Madurai. On the transaction, the petitioners issued cheques in favour of the defacto complainant and the same were presented on his bank, the said cheques were returned with an endorsement as 'funds insufficient'. After issuance of notice, he lodged a complaint before the jurisdictional Court at Madurai and the same has been taken cognizance. Summons were issued to the respondent. Therefore, the respondent has very much jurisdiction to prefer complaint for the offence under Section 138 of Negotiable Instruments Act, before the concerned Judicial Magistrate at Madurai. Now it is pending for trial on the file of the Judicial Magistrate, Fast Track Court No.II, Madurai. Therefore, petitions for seeking transfer are nothing, but only to protract the proceedings.

6. In the result, both the petitions are devoid of merits and accordingly, these criminal original petitions are dismissed.

7.Since, the trial is pending for a long time, the learned Judicial Magistrate, Fast Track Court No.II, Madurai, is directed to complete the trial in both cases within a period of three months



from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

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Sub Assistant Registrar (CS-)

To

1.The Judicial Magistrate No.VI, Madurai.

2.The Judicial Magistrate,
Fast Track Court No.II,
Madurai

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+2 CC to M/s.L.GEORGE PAUL ANTO, Advocate
(SR-87206, 87207[F] dated 17/09/2019)

CRL.O.P. (MD) .Nos.2127 and 2172 of 2018
and
CRL.M.P (MD) Nos.944 and 972 of 2018
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