



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)Nos.13954 and 14014 of 2015
and
M.P. (MD)Nos.1,1,2 and 2 of 2015

A.Nagarajan ... Petitioner in both Crl.O.Ps.

Vs

R.Suthanthirapandian ... Respondent in Crl.O.P.(MD)No.13954 of 2015
R.Girija ... Respondent in Crl.O.P.(MD)No.14014 of 2015

Prayer in Crl.O.P. (MD)No.13954 of 2015: Petition filed under Section 482 Code of Criminal Procedure, to call for the records relating to the proceedings in S.T.C.No.90 of 2015 pending on the file of the Fast Track Court (Judicial Magistrate Level) No.1, Madurai and quash the same.

Prayer in Crl.O.P. (MD)No.14014 of 2015: Petition filed under Section 482 Code of Criminal Procedure, to call for the records relating to the proceedings in S.T.C.No.92 of 2015 pending on the file of the Fast Track Court (Judicial Magistrate Level) No.1, Madurai and quash the same.

For Petitioner : Mr.D.Malaichamy
For Respondent : Mr.D.Senthil
(in both Crl.O.Ps)

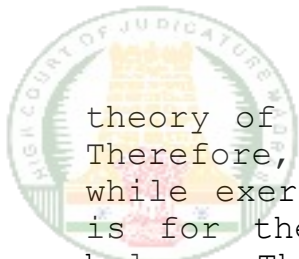
COMMON ORDER

The petitioner herein is facing trial in the impugned complaints instituted by the respondent for the offence under Section 138 of the Negotiable Instruments Act. To quash the same, these criminal original petitions have been filed.

2. The petitioner's counsel would contend that the impugned complaints are bad for non joinder of the drawer of the cheque. According to him, the cheque was drawn by the firm and the firm has not been impleaded as a party to the proceedings.

3. I am unable to agree with the said submission.

4. As rightly pointed out by the respondent/ complainant, in response to the statutory notice issued by the complainant, the petitioner herein has given a reply and in the said reply, the



theory of the drawer being the firm has not at all been projected. Therefore, I am not in a position to go into the factual aspects, while exercising my jurisdiction under Section 482 of Cr.P.C., It is for the petitioner to establish his defence before the Court below. Therefore, leaving open all the contentions and defences of the petitioner, these criminal original petitions stand dismissed. It is made clear that the observations made in these criminal original petitions are only for the purpose of disposal of this original petition and they would not foreclose his defence in the trial.

5. Taking note of the overall circumstances, the personal appearance of the petitioner is dispensed with. However, the Court below will insist on the personal appearance of the petitioner only on three occasions namely, to answer the charge, for examination under Section 313 of Cr.P.C., and at the time of pronouncing Judgment. On all other occasions, the petitioner need not appear before the Court below. However, on those occasions, the petitioner will have to be represented by counsel. If the petitioner's counsel is also absent, the benefit of dispensing with the personal appearance of the petitioner will stand automatically vacated. It is made clear that this Court has not pronounced anything on the merits of the matter. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar(CS)

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To

1. The Fast Track Court (Judicial Magistrate Level) No.1,
Madurai.

2. The Chief Judicial Magistrate,
Madurai

+2 CC to M/s.M.MALAICHAMY, Advocate SR-98586, 98587

Crl.O.P(MD)Nos.13954 and 14014 of 2015
and
M.P. (MD) Nos.1,1,2 and 2 of 2015
14.11.2019

MK (26.05.2020) 2P 5C

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