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CRL.O.P.(MD)NO. 23689 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P.(MD)No.23689 of 2015 and

M.P.(MD)No.1 and 2 of 2015

Vijayan @ Vijayadhas

... Petitioner/Accused

Vs.

C.Neelamurugesasamy

... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records of the proceedings in S.T.C.No.272 of 2014 on the file of the Judicial Magistrate No.I, Fast Track Court(Magisterial Level) Nagercoil and quash the same.

For Petitioner : Mr.P.T.Ramesh Raja
For Respondents : No appearance.

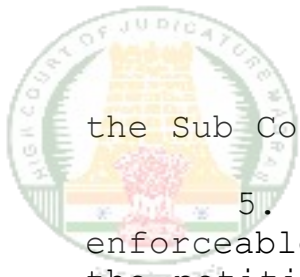
O R D E R

The petitioner is facing trial in S.T.C.No.272 of 2014 on the file of the Judicial Magistrate No.I, Fast Track (Magisterial Level) Court, Nagercoil.

2. It is a case arising out of Section 138 of the Negotiable Instruments Act. The respondent herein is the defacto complainant.

3. Though the criminal original petition has been filed for quashing the impugned proceedings and the respondent has been served, he has not chosen to enter appearance either in person or through counsel.

4. The petitioner's counsel would contend that the petitioner had already sold his land to the respondent herein and that the said transaction came to an end when on account of an adverse order passed by the Sub Collector, Nagercoil. Therefore, the respondent gave a criminal complaint against the petitioner herein and the matter was compromised. As per the terms of compromise, the respondent was to return the property and the petitioner was to return the sale consideration. The petitioner issued cheques in this regard. But in the meanwhile, the order of



the Sub Collector was quashed by the Madras High Court.

5. According to the petitioner's counsel, there is no enforceable liability on the part of the petitioner herein. Though the petitioner's contentions are strong and very attractive, I am of the view that this has to be established only before the Court below for securing an acquittal.

6. Therefore, leaving open this contention to be established before the Court below, the criminal original petition stands dismissed. However taking into account the facts and circumstances of this case, the personal appearance of the petitioner before the Court below is dispensed with.

7. The learned trial Magistrate shall insist on the personal appearance of the petitioner only when it is absolutely necessary and imperative. The petitioner shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the petitioner can be represented through his counsel. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

1. The Judicial Magistrate No.I,
Fast Track Court(Magisterial Level), Nagercoil.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.P.T.RAMESH RAJA, Advocate (SR-103498[F] dated 05/12/2019)

Crl.O.P.(MD)No.23689 of 2015
04.12.2019

GKG(CO)

TR(19.02.2020)2P 4C

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