



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.10.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL OP(MD) . No.6739 of 2015
and
MP(MD)Nos.1 and 2 of 2015

K.G.Siva @ Sivasubramanian ... Petitioner/Accused

Vs

S.K.Mahendran ... Respondent/Complaint

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records and quash the proceeding of the complaint dated 12.03.2015 in S.T.C.No.42 of 2015, on the file of the Judicial Magistrate, (Fast Track Court), Theni.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondent : Mr.K.Appadurai

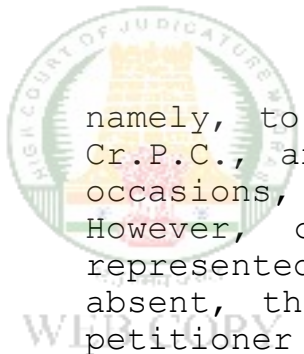
ORDER

The petitioner is facing trial in S.T.C.No.42 of 2015, on the file of the learned Judicial Magistrate, (Fast Track Court), Theni, for the offences punishable under Section 138 of the Negotiable Instruments Act. To quash the same, this Criminal Original Petition has been filed.

2.The case of the prosecution is that there is a civil dispute between the parties. He already preferred a criminal complaint against the respondent herein. Therefore, is highly improbable that the cheque could have been issued by the petitioner herein.

3.I am of the view that this defence will have to be necessarily established only in a regular trial and that this cannot be a ground for invoking the inherent powers of this Court to quash the impugned proceedings. Accordingly, this criminal original petition stands dismissed. It is made clear that this Court has not gone into the merits of the matter. All the defences available to the petitioner are left open. Consequently, connected miscellaneous petitions are closed.

4.Taking note of the facts and circumstances, the personal appearance of the petitioner before the Court below in the impugned proceedings shall stand dispensed with. The Court below will insist on the personal appearance of the petitioner only on three occasions



namely, to answer the charge, to 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 his counsel. If the petitioner's counsel is also absent, the benefit of dispensing the personal appearance of the petitioner will stand automatically vacated. The learned Judicial Magistrate, (Fast Track Court), Theni, is directed to conclude the trial on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

sjj

To

1.The Judicial Magistrate, (Fast Track Court), Theni.

Crl.O.P(MD) . No.6739 of 2015
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