



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.11.2019

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.9771 of 2018

R.A.Venkat Kumar

... Petitioner/Complainant

Vs

P.Raja Thambiran

... Respondent/Accused

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the order dated 06.01.018 passed by the Judicial Magistrate, Uthamapalayam in Crl.M.P.No.6887 of 2017 and set aside the same and consequently conduct full trial and dispose the case in accordance with law.

For Petitioner : Mr.K.M.Arun Prasath

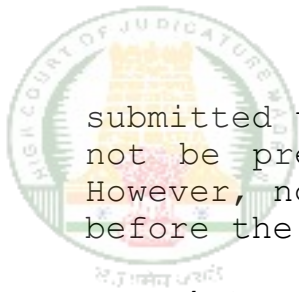
For Respondent : Mr.S.Madhan Kumar

O R D E R

This petition has been filed challenging the order passed in Crl.M.P.No.6887 of 2017 on the file of the Judicial Magistrate, Uthamapalayam, thereby, dismissing the complaint for the reason that the complainant was absent and the original cheque has not been produced.

2.On perusal of the records, it reveals that the petitioner filed a complaint under Section 138 of the Negotiable Instrument Act as against the respondent before the Judicial Magistrate, Uthamapalayam. His sworn statement was recorded on 16.12.2017 and on satisfying the sworn statement, the trial Court has taken cognizance for the offence under Section 138 read with 142 of the Negotiable Instrument Act and directed to file batta. Further, it I seen that the petitioner did not produce the original cheque before the trial Court. Therefore, the case was adjourned on 06.012018 for production of original cheque. However, on 06.01.2018, the complainant/petitioner neither appeared before the trial Court nor produced the original cheque and hence, on that ground alone, the learned Judicial Magistrate dismissed the complaint.

3. Now the learned counsel appearing for the petitioner



submitted that on the date viz., on 06.01.2018, the petitioner could not be present before the trial Court for his personal reasons. However, now, he is ready and willing to produce the original cheque before the trial Court.

4.Considering the fact and circumstances of the case, this Court is of the view that one more opportunity may be given to the petitioner.

5.Accordingly, this petition is allowed and the order dated 06.01.018 passed by the Judicial Magistrate, Uthamapalayam in Crl.M.P.No.6887 of 2017 is set aside and the petitioner is directed to produce the original cheque with appropriate application before the trial Court, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the trial Court take cognizance on the complaint lodged by the petitioner and issue summons to the respondent in accordance with law.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Judicial Magistrate, Uthamapalayam.

Order made in
CRL.O.P (MD) No.9771 of 2018
07.11.2019

JMN(04.12.2019) 2P : 2C