

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 10.12.2019****CORAM :****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****Crl OP(MD)No.2760 of 2016****and****Crl MP(MD)No.1347 of 2016**

V.N.Murugan

... Petitioner / 3rd Accused**Vs.**

1.State, rep.by

The Inspector of Police,

Perunkudi Police Station,

Perunkudi, Madurai District. ... 1st respondent/complainant

(Crime No.59 of 2014)

2.R.Alexandar

...2nd Respondent / Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records of the proceedings in Crime No.59 of 2014 on the file of the first respondent and quash the same against the petitioners herein.

For Petitioner : Mr.P.T.Ramesh Raja

For Respondents : Mr.A.Robinson,

Government Advocate (crl.side) for R1

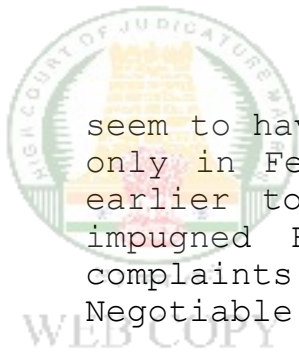
No appearance for R2

ORDER

The petitioner is shown as Accused No.3 in Crime No.59 of 2014 on the file of the Perunkudi Police Station, Madurai District. The defacto complainant is the second respondent herein. To quash the same as far as he is concerned, this criminal original petition has been filed.

2.The case of the prosecution is that there was a land transaction between him and one Seenivasan/A1. The said Seenivasan owned certain extent of land. The second accused Murugan acted as a broker for A1. The case of the defacto complainant is that he paid a sum of Rs.6,55,000/- in cash to the first accused and he also handed over the cheques for a sum of Rs.2,50,000/- and Rs.50,000/-. It is seen from the enclosed materials that the cheques given by the defacto complainant were dishonored on presentation and therefore two private complaints were filed under Section 138 of the Negotiable Instruments Act in STC No.57 of 2014 and STC No.1269 of 2013 by the petitioner herein. While according to the defacto complainant the cheques given to the petitioner represented his commission amount, the petitioner's case is that the defacto complainant herein had borrowed money from him and towards discharge of his liability issued those two cheques.

3.I went through the copies of the complaint in STC Nos.1269 of 2013 and 57 of 2014 on the file of the FTC No.1 (J.M Level), Madurai. Statutory notices were issued to the defacto complainant. The defacto complainant had received the said notices. He does not



seem to have given any reply. The FIR in question came to be lodged only in February, 2014. The private complaints were filed much earlier to that. The petitioner's counsel would contend that the impugned FIR has been lodged only as a counter blast to the complaints filed by the petitioner herein under Section 138 of the Negotiable Instruments Act.

4.I am of the view that the contention of the petitioner's counsel has considerable force. In this view of the matter, the impugned FIR against the petitioner herein is quashed. It is made clear that the other two accused will not be entitled to take advantage of the order allowing this criminal original petition. Likewise, it is made clear that the petitioner will not be entitled to take advantage of this order in the pending prosecution. The said cases under Section 138 of the N.I Act will have to be prosecuted entirely on their own merits. The defacto complainant will be at liberty to raise all the defences available to him in the said cases. This criminal original petition stands allowed. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020
Sub Assistant Registrar(CS)

Skm

To

1.The Inspector of Police,
Perunkudi Police Station,
Perunkudi, Madurai District.

2.The Fast Track Court Judge No.I, (J.M.level), Madurai.

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

+1 CC to M/s.P.T.Ramesh Raja, Advocate (SR-104434[F]
dated 11/12/2019)

Cr1 OP(MD)No.2760 of 2016
and
Cr1 MP(MD)No.1347 of 2016
10.12.2019

SMA/10/02/2020/2P/5C