

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.07.2020

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.2238 of 2020
and Crl.M.P.Nos.1403 & 1405 of 2020

A.Alangaramary ... Petitioner

Vs.

Mr.Chitrai Pandian ... Respondent

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records relating to the S.T.C.No.659 of 2018, on the file of Judicial Magistrate Court, Tambaram, and to quash the same.

For Petitioner : Mr.T.Dhanasekaran

For Respondent : Mr.J.Franklin

O R D E R

This petition has been filed to call for the records relating to the S.T.C.No.659 of 2018, on the file of Judicial Magistrate Court, Tambaram, and to quash the same.

2.The learned counsel appearing for the petitioner would submit that the respondent initiated the proceedings punishable under Section 138 of Negotiable Instrument Act. Pending the complaint, the petitioner executed an undertaking affidavit dated 04.05.2018 in favor of the defacto complainant/respondent herein thereby undertaking to settle the entire cheque amount on or before 16.05.2018. Again he executed the undertaking affidavit to settle the amount on or before 06.07.2018. He further submitted that the complaint itself is not maintainable in the eye of law and it amounts to mis-carriage of justice. The petitioner has no legally enforceable debt to seek recovery from the respondent herein and as such the complaint itself is not maintainable and seeking quashment of the entire proceedings.

3.The learned counsel appearing for the respondent would submit that already the trial commenced and P.W.1 was already examined and even as per the undertaking affidavit, the petitioner never settled any amount.

4.Heard Mr.T.Dhanasekaran, learned counsel appearing for the petitioner as well as Mr.J.Franklin, learned counsel appearing for the respondent.

5.The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instrument Act in S.T.C.No.659 of 2018, on the file of Judicial Magistrate Court, Tambaram. According to the respondent/defacto complainant the petitioner has borrowed a sum of Rs.60,00,000/- (Rupees Sixty Lakhs Only) on 24.02.2018 for his family needs and also to pursue the medical course of her son. Towards the repayment of the said amount, he issued a cheque drawn on his bank namely Andhra Bank, Madambakkam Branch. The said cheque was dishonoured since returned because of insufficient funds. It is also seen that after lodgment of complaint, the petitioner executed undertaking affidavit dated 04.05.2018 thereby admitted his liability and also undertaken to settle the amount on or before 06.11.2018. Now, the petitioner filed this petition to quash the entire proceedings on the ground that the petitioner has no legally enforceable debt as against the respondent and also disputed the liability. Therefore, this petition is nothing but abusive of process of this Court and liable to be dismissed. That apart, already the trial has commenced and on was examined as P.W.1 and the trial Court posted the matter for further evidence. Therefore, this Court is not inclined to quash the proceedings. However, the trial Court is directed to complete the trial within the period of six months from the date of receipt of copy of this order.

6.Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

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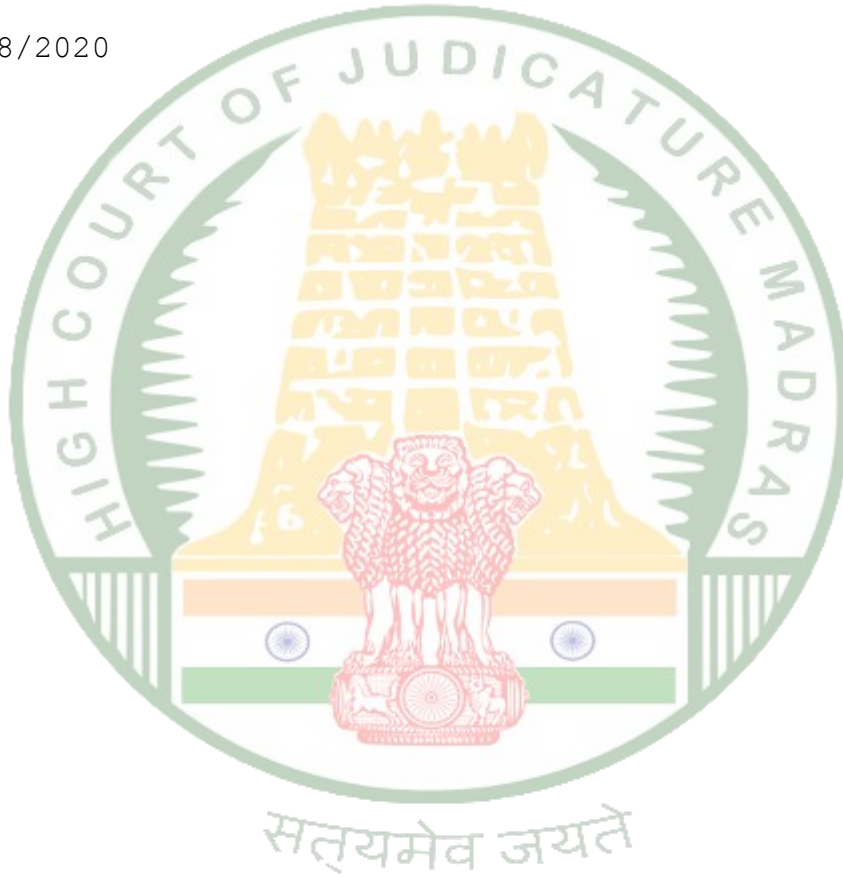
Sub-Assistant Registrar

To

1.The Judicial Magistrate Court,
Tambaram.

Crl.O.P.No.2238 of 2020
and Crl.M.P.Nos.1403 & 1405 of 2020

LN(CO)
RV 26/08/2020



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