

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No. 1732 of 2020

N.Perumal

... Petitioner

Versus

Pradeep Kumar

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order dated 22.11.2019 in Tr.C.M.P.No.2296 of 2019 on the file of the Principal Sessions Judge, Salem.

For Petitioner : Mr.C.Ramkumar

For Respondent : No Appearance

O R D E R

The petition has been filed challenging the order dated 22.11.2019 passed in Tr.C.M.P.No.2296 of 2019 on the file of the Principal District Judge, Salem in dismissing the petition filed by the petitioner for transferring the case in STC No.427 of 2019 pending on the file of the Judicial Magistrate No.II, Sankari to the file of the Special Judicial Magistrate Court for Land Grabbing Cases at Salem to try along with the case in STC.No.452 of 2018.

2.The learned counsel for the petitioner submitted that the respondent herein has initiated a proceedings under Section 138 of Negotiable Instruments Act, as against the petitioner. For the same set of allegation viz., purchase of Silver to the tune of 16 Kgs, the petitioner had issued two cheques. Therefore, the de-facto complainant presented the both cheques in two different Banks and the same were returned as dishonored. Thereafter, the de-facto complainant had initiated the proceedings under Section 138 of Negotiable Instruments Act, before the Judicial Magistrate No.II, Sankari and the Special Judicial Magistrate Court for Land Grabbing Cases at Salem.

3.Before the Court below, though the notice was sent to the respondents, they did not appear before the Special Judicial

Magistrate Court for Land Grabbing Cases at Salem, even then the Court below dismissed the petition filed by the petitioner without mentioning any reasons.

4. On perusal of the complaint lodged by the respondent herein under Section 138 of Negotiable Instruments Act in STC.No.427 of 2019 pending on the file of the Judicial Magistrate No.II, Sankari and STC.No.452 of 2018 pending on the file of the Special Judicial Magistrate Court for Land Grabbing Cases at Salem, it is evident that both the complaints are lodged by the present complainant/respondent herein with the same allegations relating to purchase of Silver. The petitioner herein had issued the cheques and both cheques were presented in two different banks, which were dishonored. In such circumstances, in the interest of justice, both the cases can be clubbed together for conducting joint trial.

5. In view of the above discussion, the order dated 22.11.2019 passed in Tr.C.M.P.No.2296 of 2019 on the file of the Principal District Judge, Salem is hereby set aside and the complaint in STC.No.427 of 2018 is ordered to be withdrawn from the file of the Judicial Magistrate No.II, Sankari and the same is transferred to the file on the Special Judicial Magistrate Court for Land Grabbing Cases at Salem forthwith. The entire case bundle to be transferred to the Special Judicial Magistrate Court for Land Grabbing Cases at Salem and The Special Court, Salem is directed to conduct a joint trial in STC.No.427 of 2019 along with STC.No.452 of 2018 and complete the trial within a period of six months from the date of receipt of copy of this order.

6. In the result, the Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Special Judicial Magistrate Court for Land Grabbing Cases, Salem.
2. The Judicial Magistrate No.II, Sankari.

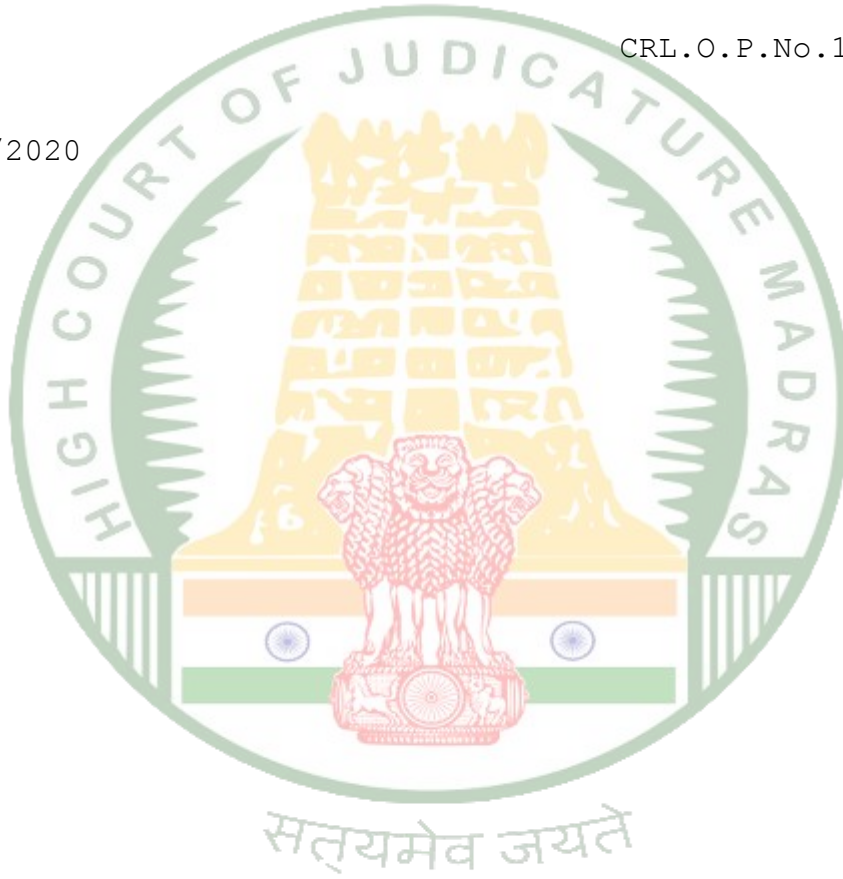
3.The Public Prosecutor,
High Court, Madras.

4.The Principal District Judge,
Salem.

+lcc to Mr.C.Ramkumar, Advocate Sr.23764

CRL.O.P.No.1732 of 2020

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