

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.3312 of 2020
and
CRL.M.P.Nos.1939 and 1940 of 2020

K.Dhananjayan ... Petitioner
Vs.
G.Ilango ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records and quash the proceedings in C.C.No.210 of 2019,pending on the file of the Fast Track Court (Magisterial Level) Ambattur till the disposal of the above Criminal Original Petition.

For Petitioner : No Appearance
For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.210 of 2019,pending on the file of the Fast Track Court (Magisterial Level) Ambattur.

2. No representation for both sides.

3. It is averred that the respondent lodged a complaint for the offences punishable under Section 138 of Negotiable Instruments Act, as against the petitioner, in which the petitioner was arraigned as A2. It is also averred that the petitioner is A2 and there are totally three accused and according to the complainant, A1 and A2 are brothers. Both the accused developed their relationship with the complainant for the past 20 years. According to the complainant, both the accused developed their friendship with the respondent and also they maintained their relationship for several years to fulfill their needs in their business. They have also running the business in the name and style of M/s.Sree Venkateshwara Traders. While being so, on several occasions, they borrowed a total sum of Rs.7,00,000/- for over the period of 3 years. When the respondent demanded the petitioner to return back the amount in order to repay the said amount, the accused A1 and A2 were

ready to sell their house for an extent of 1050 sq.ft., situated at Tiruverkadu, Chennai in favour of the defacto complainant. After payment of advance amount, the defacto complainant requested the accused persons to execute the sale deed in his favour, the accused persons did not execute the sale deed in his favour and as such, the defacto complainant requested the accused persons to return the money. In order to return the amount, the 1st accused given 4 cheques to the son of the defacto complainant and also requested him to fill up the cheques and deposit the same. Accordingly, the respondent presented the cheques and the same were returned dishonored for the reason ''insufficient funds''. After issuance of statutory notice, the respondent initiated the proceedings under Section 138 of Negotiable Instruments Act as against accused persons and the proprietary concern, M/s.Sree Venkateshwara Traders.

4. The petitioner is arrayed as 2nd Accused. Though he is the brother of the 1st accused, he is not the proprietor of M/s.Sree Venkateshwara Traders. It is seen from the alleged cheque, which was issued by the 1st accused as proprietor of M/s.Sree Venkateshwara Traders, in favour of the respondent/defacto complainant. Though the defacto complainant stated so many things in the complaint to punish the petitioner herein for the offence punishable under Section 138 of Negotiable Instruments Act, the petitioner is neither signatory of the alleged cheque nor the proprietor of M/s.Sree Venkateshwara Traders.

5. Even according to the respondent, cheques were issued by the 1st accused in the capacity of proprietor of M/s.Sree Venkateshwara Traders. Further, the cheques were also issued as a security at the time of their business. Therefore, the complaint lodged by the respondent herein cannot be sustained as against the petitioner herein.

6. In view of the above discussion, this Criminal Original Petition stands allowed and the proceedings in C.C.No.210 of 2019, pending on the file of the Fast Track Court (Magisterial Level) Ambattur is quashed and the trial Court is directed to proceed with the trial as against A1 and A3 and complete the trial within a period of twelve months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

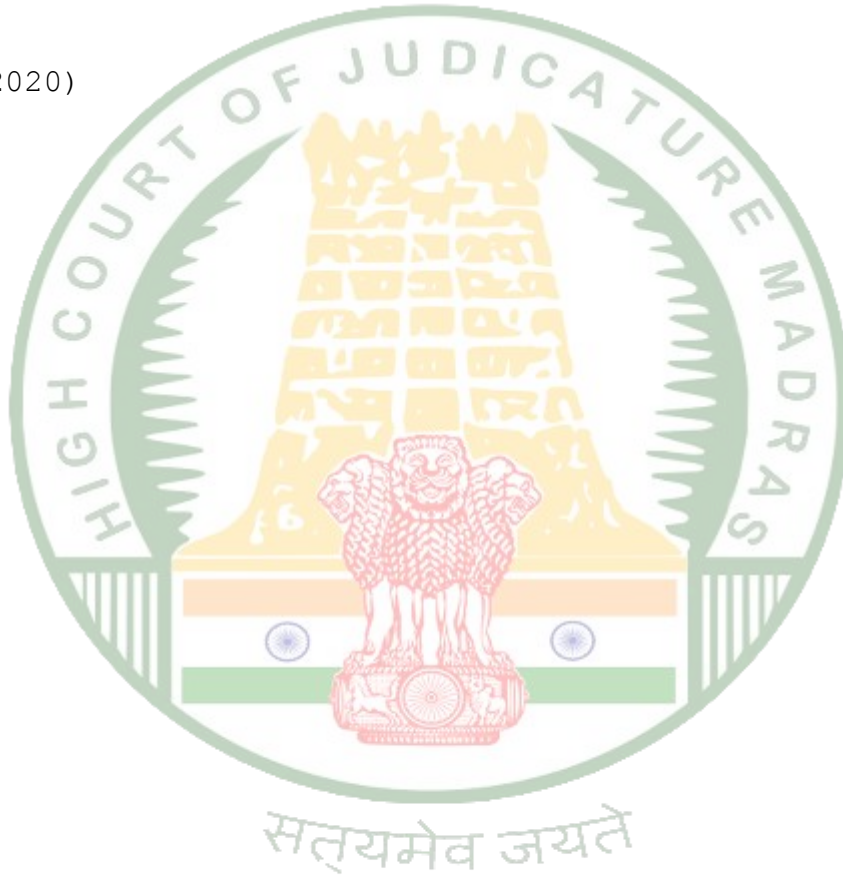
Sub-Assistant Registrar

To

1. The Fast Track Court (Magisterial Level),
Ambattur.

CRL.O.P.No.3312 of 2020
and
CRL.M.P.Nos.1939 and 1940 of 2020

AD (CO)
SP(12/10/2020)



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