

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.03.2020
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P. No. 4574 of 2020
and
Crl.M.P. No. 2618 of 2020

J.R.K.Anandharamanna

... Petitioner

Vs.

C.Jayalakshmi

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to quash the proceedings in C.C. No. 9163 of 2019 on the file of Fast Track II (Magistrate Level) Court, Egmore at Allikulam, Chennai, for the offences under Section 138 of the Negotiable Instruments Act.

For Petitioner : Mr.P.Chandrasekar

For Respondent : Mr.M.Ravindhar

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C. No. 9163 of 2019 on the file of Fast Track II (Magistrate Level) Court, Egmore at Allikulam, Chennai, for the offence under Section 138 of the Negotiable Instruments Act.

2.The learned counsel appearing for the petitioner raised the following grounds:

(a)The respondent had completely suppressed the exchange of legal notices and also the injunction suit filed by the respondent against the petitioner.

(b)The respondent had also approached the trial Court with unclean hands by suppressing the material facts the deed undertaking executed between the petitioner and the respondent had acknowledged with regard to the receiving of entire sale consideration with the petitioner.

(c)The respondent had also suppressed the material facts with regard to the filing O.S.No.9597 of 2019 pertaining to the injunction sought against the respondent herein.

(d)The respondent had completely suppressed the deed of undertaking in which

when the respondent itself had also agreed pertaining to the settlement of the entire amount for the sale deed executed by the respondent but wherein in the said complaint, it is mentioned by the respondent that, the said cheque had been issued for the balance sale consideration and this itself would demolish the case of the respondent herein.

(e) While there is so the continuance of the 138 proceedings against the petitioner is futile excise and the deed of undertaking executed between the petitioner and the respondent which was never disputed by the respondent, even in the legal notices exchanged between themselves.

(f) In any event no case is made out against the petitioner.

(g) The petitioner reserves his right to file additional grounds at the time of final hearing of the above said criminal original petition.

3. A perusal of the document shows that all the grounds raised by the petitioner are disputed facts in question and it cannot be decided by this Court under Section 482 of Cr.P.C. All the grounds have to be gone into the trial and only during the trial, those grounds can be considered. Therefore, this Court is not inclined to quash the proceedings in C.C.No.9163 of 2019 pending on the file of the Fast Track Court II (Magistrate Level) Court, Egmore at Allikulam, Chennai. Accordingly, this Criminal Original Petition is dismissed. However, the petitioner is at liberty to raise all the grounds before the trial Court in C.C.No.9163 of 2019. Since the Calender Case is of the year 2019, the trial Court is directed to complete the trial in C.C.No.9163 of 2019, within a period of six months, from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. Fast Track II (Magistrate Level) Court,
Egmore at Allikulam, Chennai.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Ravindhar, Advocate, S.R.No.20143

Crl.O.P. No. 4574 of 2020
and
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VBA(CO)
nvi/28.05.2020



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