

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5451 of 2020
and
Crl.M.P.No.3088 of 2020

M.V.Rathinam .. Petitioner

/versus/

P.Madheswaran .. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the complaint in C.C.No.303 of 2017 on the file of the learned Judicial Magistrate No.1, Namakkal and quash the same.

For Petitioner : Mr.K.Soundara Rajan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This petition has been filed praying to call for the records relating to the complaint in C.C.No.303 of 2017 on the file of the learned Judicial Magistrate No.1, Namakkal and quash the same.

2.The learned counsel appearing for the petitioner submitted that the statutory notice was not issued to the petitioner and as such, the respondent failed to comply the mandatory provision under Section 138 of the Negotiable Instruments Act under the spirit of issuance of notice. The petitioner never resides the address mentioned in the notice as well as the complaint. However, summon was served in the new address where the petitioner resides. Therefore, the respondent did not issue notice mandates under Section 138 of the Negotiable Instruments Act.

3. It is seen from the records that in the complaint and in the returned cover the respondent has mentioned the address of the petitioner as Avarangampalaym, Kodaikarankadu, Mavelipalayam post, Sankari Taluk. But, the summon was sent to the petitioner by the trial Court to a different address. These points cannot be considered here, since it is the mixed question of fact and it has to be gone into the full fledged trial. This Court is inclined to dismiss the criminal original petition. However, the petitioner is at liberty to raise all the grounds before the trail Court.

4. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.1, Namakkal.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.21439

Cr1.O.P.No.5451 of 2020

BR(CO)

Maya (27/05/2020)

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