

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:12.10.2020

Pronounced on :28.10.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.26068 of 2014
and M.P.No.1 of 2014

M.S.Kumanan .. Petitioner / Accused No.3

Vs.

F.Ramesh ... Respondent / Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the proceedings in C.C.No.250 of 2004 on the file of the learned Judicial Magistrate No.II, Salem.

For Petitioner : Mr.R.John Sathyan

For Respondents : Mr.S.Kalyanaraman

ORDER

This Criminal Original Petition has been filed to quash the proceedings pending against the petitioner in C.C.No.250 of 2004 on the file of the learned Judicial Magistrate No.II, Salem.

2. For the sake of convenience, the parties will be referred to by their names.

3. Ramesh has initiated a prosecution in C.C.No.250/2003 before the Judicial Magistrate No.II, Salem, under Section 138 of the Negotiable Instruments Act against M/s.Tan India Limited [A1], M.S.Mathivanan [A2], M.S.Kumanan [A3] and P.Elangovan [A4], for quashing which, Kumanan is before this Court.

4. Heard Mr.R.John Sathyan, learned counsel for Kumanan and Mr.S.Kalyanaraman, learned counsel for Ramesh.

5. Mr.R.John Sathyan, learned counsel fairly brought to the notice of the Court that Kumanan had already challenged

the prosecution in C.C.No.250/2004, in CrI.OP.No.845/2006, raising the same grounds, but he failed, and this Court had dismissed the quash petition on 23.06.2008, relying upon the judgment of the Hon'ble Supreme Court in N.Rangachari vs. Bharat Sanchar Nigam Ltd., (2007 (3) CTC 495). Since the law relating to vicarious liability under Section 141 of N.I. Act has undergone a sea change after N.Rangachari case cited supra, the present quash petition has been preferred.

6. The fact remains that from 2004 to 2020, this case has not progressed, on account of the stay orders granted by this Court from time to time. In the considered opinion of this Court, the second quash petition filed on the same ground, on the reasoning of march of law, cannot be maintained.

7. In the result, this petition is dismissed. However, the petitioner can agitate the new grounds, if any, available to him before the trial Court. The petitioner is directed to appear before the trial Court on 07.12.2020 and execute a bond for a sum of Rs.10,000/- with two sureties under Section 88 Cr.P.C., failing which, the trial Court may issue a warrant for securing his presence. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ds

To:

1.The Judicial Magistrate No.II,
Salem.

2.Do-Thro'The Chief Judicial Magistrate,
Salem.

VM(CO)
CB(09/12/2020)

CrI.O.P.No.26068 of 2014

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