



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2020

CORAM:

WEB COPY

THE HONOURABLE **MR.JUSTICE A.D.JAGADISH CHANDIRA**

Crl.O.P. (MD)No.1890 of 2020

and

Crl.M.P. (MD)Nos.948 and 951 of 2020

Faiz Ahamed

: Petitioner/Accused

Vs.

Rathanapandian

: Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the complaint in STC No. 250 of 2019 on the file of the learned Judicial Magistrate, Fast Track Court, Magisterial Level, Thanjavur and quash the same as illegal.

For Petitioner

: Mr.R.Karunanithi

ORDER

This Criminal Original Petition has been filed to quash the proceedings in STC No. 250 of 2019 on the file of the learned Judicial Magistrate, Fast Track Court, Magisterial Level, Thanjavur

2.The learned counsel appearing for the petitioner would submit that the petitioner is facing trial for offence under Section 138 of the Negotiable Instrument Act. He would submit that cheque was dated 25.04.2019, however the respondent/complainant by over writing the date as 25.04.2019 has filed a false complaint against him. Hence, sought for quashment of the proceedings.

3.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

4. At this juncture, the learned counsel appearing for the petitioner prayed that the personal appearance of the petitioner before the trial Court, may be dispensed with.

5.Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he shall be present on the first day of appearance , on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing



judgment and whenever insisted upon by the trial court.

6.The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorial tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, **in State of Uttar Pradesh Vs. Shambunath Singh**, reported in **2001 (4) SCC 667**.

7.Accordingly, this Criminal Original Petition dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P(MD) No.948 of 2020 stands closed and Crl.M.P(MD) No.951 of 2020 stands ordered.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Judicial Magistrate, Fast Track Court,
Magisterial Level, Thanjavur.

+1 CC to M/s.R.KARUNANITHI, Advocate (SR-4886[F] dated 05/02/2020)

Crl.O.P. (MD)No.1890 of 2020

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