



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2020

CORAM:

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

WEB COPY

Crl.O.P.(MD)No.3454 of 2020

and

Crl.M.P.(MD)Nos.1849 and 1850 of 2020

S.John

Proprietor & Authorities Signatory

Gnanaraj Timber Trading Merchant

No.144, Dindigul Main Road

Opp to Government Hospital

Vaiyampatti, Manaparai Taluk

Tiruchirapalli District

: Petitioner

Vs.

M/s. Patel Timbers

No.53/3, Dindigul Main Road

(Opp to RTO Office)

Prattiyur, Trichy -9

Rep. by its Managing Partner

Hadmukh. R. Patel

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the impugned complaint in C.C.No.1321 of 2019 on the file of the learned Judicial Magistrate No.II, Tiruchirappalli and quash the same.

For Petitioner

: Mr.R.S.Sivaram

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.1321 of 2019 on the file of the learned Judicial Magistrate No.II, Tiruchirappalli

2.The learned counsel appearing for the petitioner would submit that the cheque which has been given as advance has been misused by the respondent/complainant. He would also submit that there are ample of materials to show that the petitioner has repaid the amount in respect of the cheque issued. Hence, he 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***.

8. Accordingly, this Criminal Original Petition dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P(MD) No.1849 of 2020 stands closed and Crl.M.P(MD) No.1850 of 2020 stands ordered.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Judicial Magistrate No.II, Tiruchirappalli

+1 CC to M/s.R.S.SIVARAM, Advocate (SR-9183[F] dated 28/02/2020)

Crl.O.P. (MD)No.3454 of 2020
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JMN (09.03.2020) 2P : 3C

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