



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2020

CORAM:

WEB COPY

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

Crl.O.P.(MD).No.19404 of 2019

and

Crl.M.P.(MD).Nos.11379 and 11380 of 2019

1.R.V.Venkatraman

2.Colour Hotels and Restaurants LLP,

No.61, Logaiah Colony,

5th Cross Street,

Saligramam, Chennai-600 026. ..Petitioners/Accused Nos.1 and 2

Vs.

Ganesh Subbaiah Devar

.. Respondent/Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in S.T.C.No.942 of 2019 on the file of the Judicial Magistrate No.1, Tirunelveli District and quash the same.

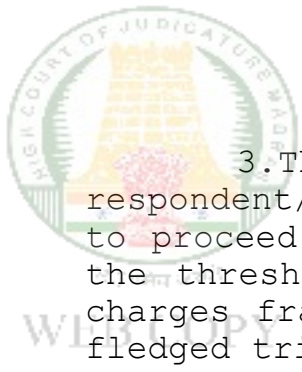
For Petitioners : Mr.C.Gangai Amaran

For Respondent : Mr.D.Venkatesh

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.942 of 2019 on the file of the Judicial Magistrate No.1, Tirunelveli District.

2.The learned counsel appearing for the petitioner would submit that one Pugalendhi, who was working as an employee at the second petitioner/Hotel had stolen several cheques from the first petitioner and misused the same. The petitioners have lodged a complaint in respect of the same before the Assistant Commissioner of Police CCB, vide in C.No.3105 of 2019, dated 08.06.2019. In order to wreck vengeance, the said Pugalendhi had handed over the stolen cheques to the respondent and he has fraudulently deposited the stolen cheques by forging the signature of the first petitioner and they were returned as "Payment Stopped by the Drawer", based on which, the present private complaint has been filed by the respondent under Sections 138 and 142 of Negotiable Instrument Act, before the Judicial Magistrate No.1, Tirunelveli. He would further submit that petitioners are innocent persons and they have been falsely implicated in this case with oblique motive and hence, sought for quashment of the proceedings.



3. The learned counsel appearing for the respondent/complainant submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioners has to be gone into a full-fledged trial. Hence, he prayed for dismissal of the petition.

4. 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.

5. At this juncture, the learned counsel appearing for the petitioner prayed that the first petitioner is aged about 63 years and his personal appearance before the trial Court, may be dispensed with.

6. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they 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.

7. The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners 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.11379 of 2019 stands are closed and Crl.M.P(MD) No.11380 of 2019 stands ordered.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To:

The Judicial Magistrate No.1, Tirunelveli.

+1 CC to M/s.D.VENKATESH, Advocate (SR-4535[F] dated 04/02/2020)

+1 CC to M/s.C.GANGAI AMARAN, Advocate (SR-4726[F] dated 04/02/2020)

Cr1.O.P.(MD).No.19404 of 2019
and

Cr1.M.P.(MD).Nos.11379 and 11380 of 2019

KK/02.03.2020/3P-4C

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