

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.5953 of 2021
and
Crl.M.P Nos. 3846 & 3847 of 2021

S.Irfan Petitioner

Vs.

Barkath

... Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records pertaining to S.T.C.No.536 of 2020 pending on the file of the Judicial Magistrate No.II, Krishnagiri and quash the same.

For Petitioner : Mr.R.M.Makesh Kumaravel
for Mr.Jayaprakash

ORDER

This petition has been filed challenging the proceedings initiated by the respondent against the petitioner under Section 138 and 142 of Negotiable Instruments Act, 1881.

2. The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

3. The learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses

on the same day, they are examined in Chief. The petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.

4. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in S.T.C.No.536 of 2020 pending on the file of the Judicial Magistrate No.II, Krishnagiri, within a period of six months from the date of receipt of a copy of this order. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Cr1) 288 SC]. If the petitioner adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioner and remand him to custody as per the judgment of the Hon'ble Supreme Court in STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191). Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

RKA

To

The Judicial Magistrate No.II, Krishnagiri.

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.20315

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PCH (CO)

TE (30/04/2021)

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