

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.3407 of 2018

And

Crl.M.P.Nos.1497 and 1498 of 2018

S.Naurang

... Petitioner

Vs.

S.Raman

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records in C.C.No.299 of 2017 pending on the file of the Judicial Magistrate at Tirukoilur and quash the same.

For Petitioner : Mr.G.Mohanakrishnan
for M/s.J.Manikandan

For Respondent : Mr.S.Kumaresan

ORDER

The petitioner had filed this petition seeking to call for the records in C.C.No.299 of 2017 pending on the file of the learned Judicial Magistrate at Tirukoilur and to quash the same.

2.The learned counsel appearing for the petitioner submits that the respondent alleges that the petitioner had borrowed a sum of Rs.15 Lakhs for his family expenses and for business purposes from the respondent on 03.07.2017. Thereafter, the petitioner issued cheque to the respondent on 03.10.2017 for discharge of the loan amount and the said instrument when presented by the respondent in Karur Vysa Bank on the same day returned with endorsement 'insufficient funds'. Thereafter, the respondent issued legal notice to the petitioner and the same returned with endorsement 'un-claimed'. Thereafter, the respondent filed private complaint in C.C.No.299 of 2017 pending on the file of the learned Judicial Magistrate at Tirukoilur. Challenging the same, the petitioner has filed this petition.

3.The learned counsel appearing for the petitioner further submits that the instrument was returned by the Bank with endorsement 'drawers signature differs', however, suppressing the same, the respondent has stated in the complaint that the instrument returned with endorsement 'un-claimed'. Therefore, the issuance of cheque is doubtful and the complaint is liable to be quashed. Accordingly, he pray for allowing the criminal original petition.

4.Heard the submissions made by the learned counsel appearing for the respondent.

5.The initial burden lies on the complainant to establish that the cheque was signed by the petitioner and issued by the petitioner. The issue raised is a triable issue which has to be decided by the Trial Court after trial.

6.Hence, I am not inclined to interfere with the proceedings in C.C.No.299 of 2017 on the file of the learned Judicial Magistrate at Tirukoilur.

7.It is now represented by the learned counsel appearing for the petitioner that without going into the merits of the case, it would suffice, if this Court issues direction to the Trial Court to expedite the trial and complete the same as early as possible. He would further submit that the appearance of the petitioner before the Trial Court may be dispensed with.

8.The learned counsel appearing for the respondent raise no serious objection for the request now made by the learned counsel

appearing for the petitioner.

9.In view of the above, this Court directs the learned Judicial Magistrate at Tirukoilur, to expedite the trial in C.C.No.299 of 2017 and complete the same, as expeditiously as possible. The appearance of the petitioner before the Trial Court is dispensed with. However, this order will not stand on the way of the Trial Court to insist for the appearance of the petitioner for receiving copies under Section 207 of Cr.P.C., framing of charges, questioning under Section 313 of Cr.P.C. and judgment and as and when the Trial Court feels it necessary.

10.With the above directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions are closed.

22.06.2021

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

To

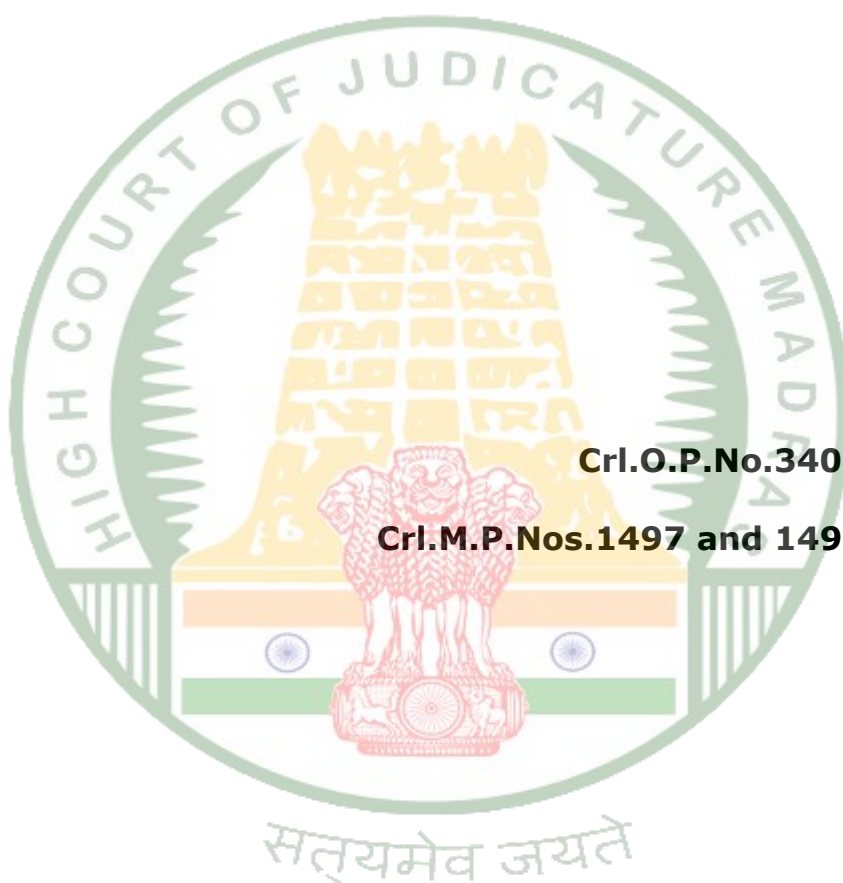
1.The Fast Track Metropolitan Magistrate Court No.III,
Saidapet, Chennai.

2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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M.DHANDAPANI,J.
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