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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Cr1. O.P. No.5189 of 2017

Dinesh Sathe

...Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
Central Crime Branch,
EDF-III, Egmore,
Chennai-600 008.

2. M/s.Amman Try Sponge and Power (P) Limited,
Represented by its General Manager,
K.Chandrasekaran,
No.46, Usman Ali Street,
TVS Tollgate,
Trichy-620 020

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the proceedings C.C.No.43 of 2015 on the file of the Hon'ble Judicial Magistrate No.1 at Poonamallee so as to quash the same.

For Petitioner : No appearance

For Respondents : Mr.S.Vinoth Kumar
for Public Prosecutor for R1

: Mr.Bijai Sundar for R2

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the proceedings C.C.No.43 of 2015 on the file of the Hon'ble Judicial Magistrate No.1 at Poonamallee so as to quash the same.

2. Heard the learned counsel for the respondents and there is no representation on behalf of the petitioner.

3. Though the petitioner is charged for the offence under sections 406, 465, 468, 471, 420 r/w 120(b) of IPC, the allegations made against the petitioner in the complaint



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involves question of fact and it also appears that a separate case in C.C.No.768 of 2012 is pending on the file of Judicial Magistrate I, Tiruchirapalli against the petitioner for the offence under Section 138 of the Negotiable Instruments Act, 1881.

3. On perusal of the materials available on record, this Court is of the view that the allegations are factual and triable issues, which have to be decided only by way of a full fledged trial and not otherwise under Section 482 of Code of Criminal Procedure. In such a view of the matter, quashing of the case cannot be considered, at this point of time.

4. Accordingly, this Criminal Original Petition is dismissed. It is for the petitioner to take all his defence before the trial Court. The accused is directed to appear before the trial Court within a period of two weeks from the date of receipt of a copy of this order and file an application under Section 436 of Code of Criminal Procedure. On such filing of the application, trial Court is directed to release the petitioner on bail on the same day on executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties. If thereafter, he absconds, a fresh FIR can be registered under Section 229 A of the Indian Penal Code.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

msv

To

1. The Inspector of Police,
Central Crime Branch,
EDF-III, Egmore,
Chennai-600 008.
2. The Judicial Magistrate No.1,
Poonamallee.
3. The Public Prosecutor
High Court, Madras.

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PA(CO)
RGA(30/11/2021)