



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Cr1.O.P. No.8456 of 2017

and

Cr1.M.P.No.6047 of 2017

R.Tamilselvi,
W/o. S. Rajasekar

...Petitioner/Accused

Vs.

N.Periyasamy,
S/o. Natchimuthu

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records concerned in S.T.C.No. 47 of 2017 on the file of Judicial Magistrate / Fast Track Court, Tiruchengode, Namakkal District and quash the same in so far as relates to petitioners are concerned.

For Petitioner : No appearance

For Respondent : No appearance

O R D E R

(This case has been heard through Video Conference)

This Criminal Original Petition has been filed to quash the private complaint filed under Sec.138 and 142 of Negotiable Instruments Act pending against the petitioner in S.T.C.No.47 of 2017 on the file of the learned Judicial Magistrate / Fast Track Court, Tiruchengode.

2. Today, when the matter is taken up for hearing, there is no representation neither on behalf of the petitioner nor on behalf of the respondent.



3. Various factual aspects have been relied upon to quash the proceedings and it is also seen that the petitioner has not complied the order passed by this Court to deposit a sum of Rs.2,00,000/- to the credit of STC No.47 of 2017. In such view of the matter, having gone through the materials available on record, this Court is of the considered view that when a complaint is filed under Section 138 of the Negotiable Instruments Act, this Court cannot go into the question of fact as to the validity of the issuance of cheque and whether the cheque has been issued towards a legally enforceable debt or not. Those issues 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. The above view of this Court is fortified by the decision of the Hon'ble Supreme Court in STATE OF HARYANA AND OTHERS Vs. BHAJANLAL AND OTHERS 1992 Supp (1) Supreme Court Cases 335, wherein the Hon'ble Supreme Court has held that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection.

4. In such a view of the matter, this Court is of the view that quashing of the case cannot be considered, at this point of time. 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 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 and to dispose the matter within a period of six months. If thereafter, he absconds, a fresh FIR can be registered under Section 229 A of the Indian Penal Code. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rpp/gd



To

1. The Judicial Magistrate / Fast Track Court,
Tiruchengode,
Namakkal Dt.

2. The Public Prosecutor,
High Court, Madras - 104.

Cr1.O.P.No.8456 of 2017

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NSK 03/12/2021