



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 17628 of 2017

and

Crl.M.P.Nos.10785 and 10786 of 2017

M.Shanmugam . . . Petitioner

Versus

M.Jeevanandham . . . Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in S.T.R.No.138 of 2017 on the file of the Judicial Magistrate, Karaikal, and quash the same.

For Petitioner : Mr.M.Vaidhiyanathan

For Respondent : Mr.M.P.Saravanan

ORDER

This Criminal Original Petition has been filed to quash the proceedings under Section 138 of the Negotiable Instruments Act, pending on the file of the Judicial Magistrate, Karaikal, in S.T.R.No.138 of 2017.

2.The main contention of the learned counsel for the petitioner is that the cheque was presented twice and therefore, the prosecution initiated on the basis of the second notice is not permissible in law. The learned counsel further contended that the cheque was dishonoured on the ground of "Stop Payment", and therefore, there cannot be any prosecution.

3.This Court is unable to countenance the first contention of the learned counsel for the petitioner for the reason that the initiation of prosecution on the basis of the second notice is no longer res integra and the Hon'ble Apex Court, in MSR Leathers v. S.Palaniappan and another reported in 2013 (1) SCC 177, has held that the prosecution based upon second or successive dishonour of the cheque is also permissible. With regard to "Stop Payment", I am of the view that the same cannot be a ground to quash the complaint. In respect of other aspects, it is for the petitioner to raise all his legal defence before the trial Court.



4. In such view of the matter, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

5. The petitioner/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, the trial Court is directed to release the petitioner on bail on the same day on he 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 II)

//True Copy//

Sub Assistant Registrar

mkkn/psa

To

1. The Judicial Magistrate,
Karaikal.
2. -do thro The Chief Judicial Magistrate,
Pondicherry.

+lcc to Mr.M.Vaidhiyanathan, Advocate, S.R.No.59917

Cr1. O.P. No. 17628 of 2017

PMK(CO)
CT 03/12/2021