



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.14742 of 2021

and

Crl.M.P. (MD)Nos.7814 & 7815 of 2021

WEB COPY

S.Kannan

... Petitioner/
Accused

Vs.

R.Edwin Joshua

... Respondent/
Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to call for records pertaining to S.T.C.No.113 of 2021 pending on the file of the learned Judicial Magistrate F.T.C.No.II, Madurai and quash the same.

For Petitioner : Mr.D.Selvanayagam

For Respondent : Mrs.A.S.Shangeetha

ORDER

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

2. The petitioner is facing a trial in S.T.C.No.113 of 2021 on the file of learned Judicial Magistrate (Fast Track Court) No.II, Madurai. It is a private complaint instituted by the respondent for the offence under Section 138 of Negotiable Instrument Act.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds.

4. While considering the quash petition, it may not be open to this Court to go into those factual aspects. The petitioner has to necessarily prove his innocence only before the Court below. The learned counsel appearing for the petitioner relied on the order dated 02.03.2021 made in Crl.O.P.(MD)No.1907 of 2021. A learned Judge of this Court had directed the complainant to produce the Income Tax returns for the relevant period. I note that the said order was not passed in a quash petition. When a Memo was filed by the accused to direct the complainant to produce the salary slip issued for every month and also Income Tax returns, the trial Court allowed the memo by passing an order to that effect and directed the complainant to produce the documents. Challenging the said order, that Criminal Original Petition was filed before this Court. In that proceedings, the order mentioned by the petitioner's counsel was



passed. Therefore, the said decision has no direct application to the case on hand. Accordingly, this Criminal Original Petition stands dismissed. The petitioner's remedies and rights are left open.

5. Taking into consideration the facts and circumstances of the case, the personal appearance of the petitioner before the Court below shall stand dispensed with. The Court below will insist on the personal appearance of the petitioner only on three occasions namely, to answer the charges, examination under Section 313 of Cr.P.C., and at the time of pronouncing Judgment. On all other occasions, the petitioner need not appear before the Court below. However, on those occasions, the petitioner will have to be represented by his counsel. If the petitioner's counsel is also absent, the benefit of dispensing the personal appearance of the petitioner will stand automatically vacated. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

Judicial Magistrate F.T.C.No.II, Madurai.

+1 CC to M/s.A.S.SHANGEETHA, Advocate (SR-39749[F] dated 21/12/2021)

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-40059[F] dated 22/12/2021)

CrI.O.P. (MD)No.14742 of 2021

and

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