



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.12.2021
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

Crl O.P.(MD)No.18705 of 2021 &
Crl MP(MD)Nos.10356 & 10358 of 2021

Abiramam K Murugan ... Petitioner/Accused
(mistakenly mentioned the name
of the petitioner/accused as K.Murugan)

Vs.

M.Arunkumar ... Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to STC No.290 of 2021 pending on the file of the Judicial Magistrate No.I, (FTC Magisterial Level), Madurai and to quash the said proceedings as against the petitioner herein.

For Petitioner : Mr.S.Saravanakumar

ORDER

This criminal original petition has been filed to quash the impugned proceedings in STC No.290 of 2021 on the file of the Judicial Magistrate No.I, (Fast Track Court, Magistraterial level) Madurai. The respondent herein had filed the impugned private complaint under Section 138 of the Negotiable Instruments Act. The learned counsel for the petitioner states that there is no enforceable liability and that the impugned complaint is not maintainable. He would further state that the complainant has not at all established the so called transaction said to have taken place between himself and the petitioner herein. The learned counsel reiterated all the contentions set out in the memorandum of grounds and wanted this Court to quash the impugned proceedings.

2.However, I am not persuaded by the same. This is because the issue of enforceable liability is purely factual in nature and the petitioner necessarily will have to establish his defence only in a regular trial. While exercising power under Section 482 of Cr.Pc, I cannot go into such contentious issues. Leaving open all the contentions and defences of the petitioner, this criminal original petition stands dismissed. Connected miscellaneous petitions are also dismissed.



3.The petitioner's personal appearance before the court below is dispensed with. The trial judge shall not insist on his personal appearance unless it is necessary or imperative. Of course, the petitioner has to appear on those occasions, namely, to answer the charges, examination under Section 313 of Cr.Pc and on the day of pronouncement of judgment. On all other occasions, the petitioner has to be represented by his counsel. If his counsel also fails to appear, the benefit of this order will automatically stand vacated.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

skm

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

The Judicial Magistrate No.I,
(FTC Magisterial Level), Madurai.

Crl O.P. (MD)No.18705 of 2021

01.12.2021

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