



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.04.2022

DELIVERED ON : 13.06.2022

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.2218 OF 2019

AND

CRL.M.P.NOS.1442 & 3693 OF 2019

S.Gananathan

... Petitioner/Accused

Vs.

Mr.Ravindrakumar

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records pertaining to C.C.No.2380 of 2013 on the file of the learned Magistrate, Fast Track Court - III, Saidapet, Chennai - 15 and quash the same.

For Petitioner : M/s.K.Ramani

For Respondent : No Appearance

O R D E R

This Petition had been filed to quash the case in C.C.No.2380 of 2013 on the file of the learned Magistrate, Fast Track Court - III, Saidapet, Chennai.

2. The learned Counsel for the Petitioner had invited the attention of this Court to the cross-examination of the Respondent as P.W-1 before the learned Additional Master - I, Original Side of this Court in C.S.No.877 of 2002 where specific questions were put to P.W-1, the Respondent herein and the Complainant in C.C.No.2380 of 2013 on the file of the learned Metropolitan Magistrate, Fast Track Court - III, Saidapet, Chennai, which were objected to by the learned Counsel for the Plaintiff stating that those are irrelevant. Those objections by the the learned Counsel for the Plaintiff was rejected by the



learned Additional Master - I stating that the learned Counsel for the Defendant/Petitioner herein had obtained copies of the cheques, as well as the certified complaint and instructed to proceed with the cross-examination. In the cross-examination of the Plaintiff as P.W-1 that he admits the cheque number referred in C.C.No.2380 of 2013 and the same stand was taken by the learned Counsel for the Defendant/Petitioner herein.

3. Under those circumstances, for recovery of money, there cannot be a Suit and criminal complaint. Therefore, it is nothing but an abuse of process of Court for which extraordinary powers under Section 482 of Cr.P.C., is provided to the Hon'ble High Court to avert injustice and avoid miscarriage of justice.

4. Further it is found that even though notice was served on the Respondent/Complainant, he did not appear before this Court to raise objections regarding quashing of the criminal complaint in C.C.No.2380 of 2013. Therefore, the Court can draw adverse inference against the Respondent/Complainant from the records and from the conduct of the Respondent/Complainant. This adverse inference available to the Court under Section 114 of Indian Evidence Act from the facts and circumstances of the case as gathered from the records, which is against the Respondent/Complainant. He is aware of the principle that in the same cause of action, there cannot be a civil remedy as well as criminal complaint. If there is a criminal complaint, it amounts to converting the civil case into a criminal case which Court cannot allow as it amounts to double jeopardy. Therefore, the arguments of the learned Counsel for the Petitioner is accepted in the light of the cross-examination of the Respondent/Complainant as Plaintiff in C.S.No.877 of 2002 on the file of the Original Side of this Court and the evidence is recorded by the learned Additional Master - I. Hence, the case against the Petitioner is liable to be quashed.

In the result, this Criminal Original Petition is allowed.

The criminal complaint in C.C.No.2380 of 2013 on the file of the learned Metropolitan Magistrate, Fast Track Court - III, Saidapet, Chennai is quashed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

dh



To

1. The Metropolitan Magistrate,
Fast Track Court - III,
Saidapet, Chennai.

2. The Chief Metropolitan Magistrate,
Egmore.

CRL.O.P.No.2218 of 2019

CA (CO)
RLP (04/07/2022)