



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3801 of 2022

and

Crl.M.P.Nos. 1824 and 1826 of 2022

Mr.Kannivel

... Petitioner

Vs.

M/s VishnuCars Pvt. Ltd.,
Represented by their authorised signatory,
Mr.A.Madurai Muthu,
No.91, G.S.T. Road,
Pallavaram, Chennai - 600 043.

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to C.C.No.113 of 2020 on the file of the Judicial Magistrate, Fast Track Court, at Aladur and to quash the said complaint as against the petitioner/ Accused and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances arising out of the case and thus render justice.

For Petitioner : Mr.V.Ramanareddy

For Respondent : No appearance

O R D E R

The Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.113 of 2020 on the file of the Judicial Magistrate, Fast Track Court, Aladur, for the offence under Section 138(B) and Section 142 of Negotiable Instruments Act.

2. The learned counsel for the petitioner would submit that the petitioner is an accused, facing trial in C.C.No.113 of 2020 on the file of the Judicial Magistrate, (Fast Track Court), Alandur for the offence under Section 138 of Negotiable Instruments Act. The petitioner's son was employed in the respondent/complainant's Company as a Sales Executive and in respect of certain disciplinary action taken against the son of the petitioner, the petitioner was called to the police station during which time the cheques in question were obtained from him



in duress. He would further submit that there is no legally enforceable debt and the petitioner also sent a reply to the legal notice.

3. It is the admitted case of the petitioner he has issued the cheque, however under duress. This Court is of the opinion that the grounds raised by the petitioner are matter for trial and this could be adjudicated only at the time of trial. The petitioner has not made out any grounds for quashing the case.

4. At this juncture, the learned counsel for the petitioner would pray that the appearance of the petitioner before the Trial Court may be dispensed with and would submit that the case stands posted for initial proceedings on 01.03.2022.

5. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and at the time of framing charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial Court.

6. The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the witnesses for the complainant on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event that his presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorial tactics, it is open to the trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

nti/ssi



To

1. The Judicial Magistrate,
Fast Track Court,
Alandur.

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2. Do Thro The Chief Judicial Magistrate,
Chennai.

+1cc to Mr.V.Raman Reddy, Advocate SR.No.11275

Cr1.O.P.No.3801 of 2022

KK(CO)
GN(18/03/2022)