



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.04.2022

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THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.OP NO.3744 OF 2019

&

CRL MP.NOS.2338 & 2339 OF 2019

E.Settu

.. Petitioner/Accused

Vs

P.Poovarasana

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records in STC No.320 of 2018 on the file of the Fast Track Court, at Magistrate Level-2 at Poonamallee and to quash the entire proceedings.

For Petitioner : Mr.K.Venkatesan

For Respondents : Mr.V.Raja Saravanan

ORDER

This petition has been filed under Section 482 Cr.P.C., to call for the entire records in STC No.320 of 2018 on the file of the Fast Track Court, at Magistrate Level-2 at Poonamallee and to quash the entire proceedings.

2.Heard the learned Counsel for the Petitioner and the learned Government Advocate appearing for the Respondent.

3.Today, when the matter is taken up for hearing which was listed under the caption ''for dismissal'', the learned Counsel for the Petitioner appeared and submitted that the case was earlier referred for mediation, however, subject matter of the Criminal Original Petition was not settled, therefore, sought for an adjournment.



4. The subject matter of Criminal Original Petition in STC No.320 of 2018 is pending before the learned Judicial Magistrate II, Fast Track Court at Poonamallee under Section 138 of the Negotiable Instruments Act.

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5. Inherent power given to the High Court under Section 482 Cr.P.C. is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court has to thwart the attempt at the very threshold. The Court cannot permit a prosecution to go on if the case falls in one of the categories as illustratively enumerated by this Court in "State of Haryana v. Bhajan Lal" reported in 1992 Supp (1) SCC 335. In the present case, the petitioner who is the accused before the Court of learned Judicial Magistrate Level-2 ("Fast Track Court") at Poonamallee has approached this Court by invoking inherent jurisdiction of this Court under Section 482 Cr.P.C., seeking to quash the proceedings pending against him under Section 138 of Negotiable Instruments Act and successfully obtained order of interim stay at the time of admission of the Criminal Original Petition and by virtue of the same, the trial of the case has not been taken place and thereby, the petitioner, by enjoying the interim stay, has indirectly caused considerable delay to the defacto complainant in getting appropriate relief against him under Section 138 of the Negotiable Instruments Act. The said act of the petitioner / accused is condemnable since this is nothing but exercise of abuse of process of Court which would fall under one of the categories enunciated by the Hon'ble Supreme Court in the case of "State of Haryana v. Bhajan Lal" (cited supra). Further, after getting the order of interim stay, the petitioner had also sought permission of this Court to refer the matter for Mediation, which was now reported that the mediation had failed. Therefore, the petitioner, right from the filing of the present Original Petition, one way or the other, has been dragged on proceedings and thereby frustrated the trial proceedings before the Court below, while the defacto complainant has been all along longing for getting appropriate relief against the petitioner.

6. While this Court has come to the above conclusion, the learned Counsel for the Petitioner sought for permission to withdraw the petition. Accordingly, this petition is dismissed, however, with a direction to the learned Judicial Magistrate II, Fast Track Court, at Poonamallee to proceed with the trial and dispose of the same within a period of three months and if the petitioner/accused avoids appearance before the Court, the learned Judicial Magistrate is directed to issue a warrant in such a manner that the petitioner shall be confined to prison till the case is disposed of. For the present, the petitioner



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is directed to surrender before the learned Judicial Magistrate.
Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate,
Fast Track Court,
at Magistrate Level-2 at Poonamallee.

+1cc to M/s.R.Nagarani, Advocate, S.R.No.26736

Cr1.OP No.3744 of 2019

SJ(CO)

RLP(11/05/2022)