



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.3433 of 2019
and
Crl.M.P.No.2189 of 2019

Vasudevan

..Petitioner/Accused

Vs.

T.Arulhothilingam

..Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 19.11.2018 made in C.M.P.No.2886 of 2018 in S.T.C.No.132 of 2018 on the file of the Judicial Magistrate Court No.III, Salem.

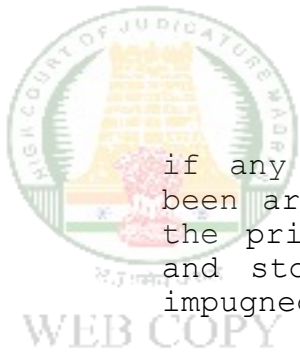
For Petitioner : Mr.C.Prabakaran

For Respondent : No appearance

O R D E R

The petitioner herein being aggrieved by the dismissal of his petition to stop the proceedings initiated against him under Section 138 of Negotiable Instruments Act is before this Court.

2. The petitioner herein is an accused in S.T.C.No.132 of 2018, which was taken on file based on a private complaint given by one Aruljothilingam, alleging that the petitioner issued four cheques for total consideration of Rs.11,11,891/- towards the sale consideration for the purchase of yarn from the complainant. But when those cheques were presented, same got returned 'for want of fund'. Pending trial of the said complaint, the petitioner / accused has taken out an application under Section 258 of Cr.P.C., stating that a counter complaint has been lodged against the Aruljothilingam and one Malli Saravanan for misappropriation and cheating. The complaint has been taken for investigation by the Central Crime Branch and till the disposal of the said complaint, the criminal prosecution may be stopped. This petition has been dismissed by the trial Court stating that the counter complaint is only at the investigation stage and it has to be investigated by the police and final report will be filed at a later point of time,



if any cognizable offence is made out. Whereas, the case has been arising out of 138 of Negotiable Instruments Act following the private complaint, the said procedure cannot be interfered and stopped under Section 258 of Cr.P.C.. The said order is impugned in this Criminal Original Petition.

3. On perusing the records placed before this Court, this Court finds that for the reason stated the proceedings in S.T.C.No.132 of 2018 on the file of the Judicial Magistrate-III, Salem, cannot be stopped, however, it is open to the petitioner herein to canvas the defence before the trial Court.

4. In view of the above, the Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is also dismissed. The dismissal of this petition shall no way prejudice the petitioner herein to raise all his defence available including what he has raised in the petition to stop the proceedings.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpl

To

The Judicial Magistrate -III, Salem

CrI.O.P.No.3433 of 2019
and CrI.M.P.No.2189 of 2019

SR(CO)
SB(07/07/2022)