



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.7474 OF 2019

AND

CRL.M.P.NO.4122 OF 2019

K.T.Selvaraj

... Petitioner/
Single Accused

Vs.

Sundari

... Respondent/
Complainant

PRAYER:

Criminal Original Petition has been filed under Section 482 of Cr.P.C, praying, to call for the records in C.C.No.188 of 2018 on the file of the Judicial Magistrate No.I, Jayamkondam, Ariyalur District and quash the same.

For Petitioner	: Mr.S.Kamadevan
For Respondent	: M/s.R.Shasee for M/s.M.Guruprasad

ORDER

This petition had been filed to call for the records in C.C.No.188 of 2018 on the file of the Judicial Magistrate No.I, Jayamkondam, Ariyalur District and quash the same.

2. The learned Counsel for the Petitioner submitted that the Petitioner is the Accused in C.C.No.188 of 2018 before the learned Judicial Magistrate No.I, Jayamkondam, Ariyalur District.

3. It is the case of the Petitioner that he had filed a private complaint under Section 138 of the Negotiable Instrument Act in STC.No.708 of 2014. In that case, the Respondent herein is the Accused and when she was questioned, she denied the



charge under Section 138 of Negotiable Instrument Act. Therefore, trial was ordered by the learned Judicial Magistrate No.I, Jayamkondam, Ariyalur District. Accordingly witnesses were examined. The Accused was questioned under Section 313 of Cr.P.C. in STC.No.708 of 2014 and she had answered the same. At this stage, she filed a complaint under Section 138 of Negotiable Instrument Act against the Petitioner herein, in C.C.No.188 of 2018 on the ground that the cheques belonging to her in STC.No.708 of 2014 were misplaced and they were taken away by the Petitioner herein, based on which, the criminal complaint under Section 138 of the Negotiable Instrument Act, had been filed. The learned Counsel for the Petitioner invited the attention of this Court to the contents of the complaint preferred by the Respondent and also the sworn statement filed by her.

4. It is the case of the learned Counsel for the Petitioner that he issued a statutory notice under Section 138 of Negotiable Instrument Act. Though the Respondent received the notice, she did not choose to reply to the same. Therefore, the complaint was filed. In the complaint, when summons were served, the Respondent appeared before the Trial Court and denied the claim of the Petitioner herein under Section 138 of Negotiable Instrument Act. Therefore, the Trial was ordered by the learned Judicial Magistrate No.I, Jayamkondam, Ariyalur District. The trial under Section 138 of the Negotiable Instrument Act, was concluded and the learned Judicial Magistrate No.I, Jayamkondam, Ariyalur District, has convicted the Respondent under 138 Negotiable Instrument Act on 22.08.2019.

5. Aggrieved by the same, she had preferred an appeal before the learned Sessions Judge, Ariyalur and the case is still pending. Therefore, the learned Counsel for the Petitioner seeks to quash the complaint filed by the Respondent, since it is an afterthought and a counter blast to his complaint under 138 Negotiable Instrument Act. The learned Counsel for the Petitioner also invited the attention of this Court to the ingredients of the complaint, which has been filed along with the typed set of papers.

6. The learned Counsel for the Respondent vehemently objects to quash the complaint in C.C.No.188 of 2018 on the ground that the case has to be allowed to proceed further. When the Petitioner herein intended to file a complaint under NI Act, he had caused the statutory notice as per Section 138 of Negotiable Instrument Act. The Respondent having received the notice did not choose to reply. Subsequently, she had appeared before the learned Judicial Magistrate No.I, Jayamkondam, Ariyalur District on receipt of the summons.



7. At this stage also, she had not filed a petition to quash the criminal complaint, she allowed the proceedings to continue, which ended in conviction against her. Under those circumstances, the criminal complaint filed by the Respondent is found to be an after thought only to harass the Petitioner. Therefore, it is nothing but an abuse of process of law under Section 482 of Cr.P.C.

8. In the light of the above discussion this Criminal Original Petition under Section 482 of Code of Criminal Procedure is allowed. Consequently the case in C.C.No.188 of 2018 pending on the file of the learned Judicial Magistrate - I, Jayamkondam is quashed. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dna

To

The Judicial Magistrate No.I, Jayamkondam,
Ariyalur District.

+1cc to M/s.M.Guruprasad, Advocate, S.R.No.25219

Cr1.O.P.No.7474 of 2019
and
Cr1.M.P.No.4122 of 2019

SR(CO)
PM/26/05/2022