



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.27459 OF 2019

AND

CRL.M.P.NOS.14637 OF 2019 & 1189 OF 2022

S.Karthik

... Petitioner/Accused

Versus

M.Karthik

... Respondent/Complainant

PRAYER:-

This Criminal Original Petition has been filed under Sections 482 of Criminal Procedure Code to call for the records in C.C.No.164 of 2019 pending on the file of the learned Fast Track Judicial Magistrate at Alandur against the Petitioner and quash the same.

For Petitioner : Mr.T.P.Sekar

For Respondent : Mr.Siddharth
For P.Ramesh Kumar

ORDER

This Criminal Original Petition has been filed seeking to call for the records in C.C.No.164 of 2019 pending on the file of the learned Judicial Magistrate, Fast Track Court at Alandur against the Petitioner and quash the same.

2. The learned Counsel for the Petitioner submitted his arguments. As per the submission, the Respondent/Complainant is the brother-in-law of the Petitioner herein. It is the case of the Petitioner that there had been matrimonial dispute between the Petitioner and his wife. The cheques belonging to the Petitioner was under the custody of his wife. Subsequent to the dispute between the Petitioner and his wife, the wife had handed over the cheques to her brother, the Respondent herein, which was presented and based on that, procedures under Section 138 of the Negotiable Instruments Act was initiated by the Respondent.



3. It is the submission of the learned Counsel for the Petitioner that due to the matrimonial dispute, a maintenance case was filed by the Petitioner's wife in M.C.No.253 of 2019 and a petition in O.P.No.2727 of 2018 on the file of the learned Additional Family Court, Chennai for restitution of Conjugal Right and there was a settlement and the Petitioner only, had paid a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to his wife by way of Demand Draft. Therefore, there was no enforceable debt between the Petitioner and the Respondent. Based on which, a criminal complaint in C.C.No.164 of 2019 had been filed on the file of the learned Judicial Magistrate, Fast Track Court, Alandur. Therefore, the learned Counsel for the Petitioner seeks to quash the criminal complaint as not maintainable.

4. The learned Counsel for the Respondent vehemently objects to quash the criminal complaint on the ground that what are all the points raised as grounds in this petition are to be treated as valuable defence by the Petitioner and that has to be agitated during the trial and not at this stage by invoking the extraordinary powers of this Court under Section 482 of Cr.P.C. Therefore, the learned Counsel for the Respondent seeks to dismiss this petition.

5. Further, the learned Counsel for the Respondent/Complainant submits that at the admission stage, this Court had granted interim stay. Since there was interim stay in favour of the Petitioner herein, the learned Judicial Magistrate, Fast Track Court, Alandur could not proceed with the trial. Based on the interim stay, the Petitioner had protracted the proceedings. Therefore, the learned Counsel for the Respondent seeks to dismiss this petition as not maintainable.

6. This case was in the list and had been repeatedly listed before this Court, but, there was no representation for the Petitioner. Therefore, the case was posted today, the last working day before the summer vacation under the caption 'for dismissal' as Item No.3.

7. Today, the learned Counsel for the Petitioner appeared and offered his apology and the same was accepted by this Court on condition only if he intends to argue the case. Therefore, the learned Counsel for the Petitioner was forced to argue. From the cause list, it is seen that there had been three Counsels for the Petitioner. In spite of several chances, none of the Counsels appeared.

8. On perusal of the records, as rightly pointed out by the learned Counsel for the Respondent/Complainant that what had been raised in the grounds in this petition filed under Section 482 is to be considered only as valuable defence, whether there



was enforceable debt and whether the cheques of the Petitioner had been misused by his wife to harass him by lodging a criminal complaint are all to be considered only at the time of trial while adducing evidence and not at this stage to quash the criminal complaint. It will be a violation of the guidelines issued in the case of State of Haryana Vs. Bhajan Lal, reported in 1992 Supp (1) SCC 335.

9. In the light of the above, the learned Judicial Magistrate, Fast Track Court, Alandur is directed to proceed with the trial and to dispose of the case within a reasonable time of three months from the date of receipt of a copy of this order. If the Petitioner herein does not co-operate with the trial proceedings, the learned Judicial Magistrate, Fast Track Court, Alandur is within his discretion to issue Non-Bailable Warrant (NBW). If the Petitioner/Accused is produced on NBW, he shall be detained in the Prison till the disposal of the criminal complaint.

10. With the above directions, the Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Fast Track Court,
Alandur.
2. -Do- Thro The Chief Judicial Magistrate,
Egmore, Chennai.

+1cc to Mr.T.P.Sekar, Advocate, S.R.No.30001

CRL.O.P.NO.27459 OF 2019 AND
CRL.M.P.NOS.14637 OF 2019 & 1189 OF 2022

PA(CO)
PBS/25/05/2022