



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.1385 of 2022

and

Crl.M.P. (MD)Nos.1032 and 1033 of 2022

1.J.Senthilkumar

2.S.Vijayalakshmi

... Petitioners/Accused

Vs.

R.Mathanraj

... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the complaint in STC.No.950 of 2021 pending on the file of the Judicial Magistrate No.5 at Tiruchirapalli and quash the same.

For Petitioners : Mr.U.Karunakaran

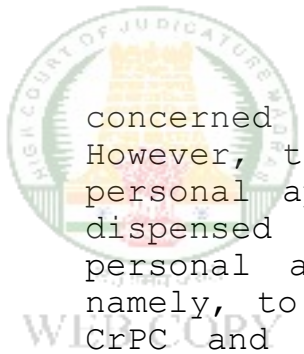
O R D E R

Heard the learned counsel for the petitioners.

2.The petitioners are figuring as accused in S.T.C.No.950 of 2021 pending on the file of the Judicial Magistrate No.V, Tiruchirapalli. It is a case arising under Section 138 of Negotiable Instruments Act.

3.The learned counsel for the petitioners reiterated all the contentions set out in the memorandum of grounds. His primary contention is that for carrying out NEFT operation, the consent of the petitioners is necessary and that in the case on hand, such a consent was not given. He would further contend that the complaint cheque was presented with the banker of the petitioner and that the said branch will not fall within the territorial jurisdiction of Judicial Magistrate No.V, Tiruchirapalli. He further contend that the cheque appears to have been obtained, when the first petitioner's father was alive and it has been misused.

4.Contention Nos.1 and 3 advanced by the petitioners' counsel involve contentious facts and therefore, they are left open to be decided at the time of trial. As regards the contention No.2, liberty is given to the petitioners herein to move the Principal Sessions Court, Tiruchirapalli for transfer of case to the



concerned Court. This criminal original petition is dismissed. However, taking note of the overall facts and circumstances, the personal appearance of the petitioners before the Court below is dispensed with. However, the Court below will insist on the personal appearance of the petitioners only on three occasions namely, to answer the charge, for examination under Section 313 of CrPC and at the time of pronouncing Judgment. On all other occasions, the petitioners need not appear before the Court below. However, on those occasions, the petitioners will have to be represented by their counsel. If the petitioners' counsel is also absent, the benefit of dispensing with the personal appearance of the petitioners will stand automatically vacated. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Judicial Magistrate No.V,
Tiruchirappalli

+2 CC to M/s.T.SEKAR, Advocate (SR-2714[F] dated 28/01/2022)

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NSN(CO)
KB(16.02.2022) 2P 4C