



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.03.2022
CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WEB COPY

Cr1.O.P(MD)No.3236 of 2022

in

Cr1.M.P(MD)No.2432 of 2022

J.Vedha

... Petitioner/Accused

Vs.

J.Abdulpaari

... Respondent/Complainant

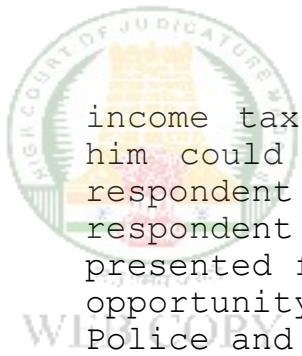
Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to order passed in Cr.M.P.No.3831 of 2019 in S.T.C.No.487 of 2017, dated 09.12.2021, pending on the file of the learned Judicial Magistrate, Bodinayakanur and set aside the same.

For Petitioner	: Mr.K.Samidurai
For Respondent	: Mr.R.Murugappan

ORDER

The Criminal Original Petition has been filed to set aside the order passed in Cr.M.P.No.3831 of 2019 in S.T.C.No.487 of 2017, dated 09.12.2021 pending on the file of the learned Judicial Magistrate, Bodinayakanur.

2. To examine the Sub Inspector of Police and the Income Tax Officer as defence witness. The petitioner is an accused and the complaint lodged by the respondent for the offence under Section 138 of Negotiable Instruments Act. The case of the petitioner is that the respondent trespassed into his house and taken away all the materials including the impugned Cheque, which is alleged in the complaint lodged for the offence under Section 138 of Negotiable Instruments Act. Immediately, the petitioner lodged a complaint and the same has been registered in Crime No.627 of 2017 for the offences under Sections 143, 448, 380, 294(b) and 506(i) IPC. Further, the respondent admitted the fact that he is ready to produce the income tax returns before the Court. Therefore, the petitioner filed a petition to examine the Sub Inspector of Police, who had registered the case as against the petitioner and the Income Tax Officer, who accounted the amount which was allegedly lend in favour of the petitioner is assessed to the Income Tax or not. However, the Court below dismissed the petition for the reason that by admission of the fact that the respondent is ready to produce the



income tax returns and Crime No.627 of 2017 registered as against him could not serve any purpose on the complainant, namely, the respondent herein. The specific case of the petitioner is that the respondent had trespassed into the house and stolen the cheque presented for collection. Therefore, the petitioner may be given an opportunity to defend his case, by examining the Sub Inspector of Police and the Income Tax Officer.

3. In view of the above, the order passed in Cr.M.P.No.3831 of 2019 in S.T.C.No.487 of 2017 dated 09.12.2021 pending on the file of the learned Judicial Magistrate, Bodinayakanur is set aside. This Criminal Original Petition is allowed. The petitioner is directed to pay batta within a period of one week from the date of receipt of a copy of this order to summon the witnesses. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate,
Bodinayakanur.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.SAMIDURAI, Advocate (SR-12285[F] dated 15/03/2022)

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-12643[F] dated 17/03/2022)

Cr1.O.P(MD)No.3236 of 2022

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Date:15.03.2022

SA(28.03.2022) 2P 8C