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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.5585 of 2023
and Crl.MP.Nos.3506 and 3508 of 2023

R.Arunahcalam, M/69
S/o.P.Ramaiah Nadar
M/s.Arunachalam Associates
Having Office at No.6, IAF Road
Venkateswara Complex
Indira Nagar, Selaiyur
Chennai 600c073.

.. Petitioner /Accused-3

.Vs.

Mr.G.Ravisekar
S/o.Mr.Gandhimohan

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining in STC.No.6836 of 2022, on the file of the V Fast Track Court, Saidapet, Chennai and quash the same.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mr.A.S.Balaji



ORDER

This criminal original petition has been filed by A3, to quash the proceedings in STC.No.6836 of 2022, pending on the file of the V Fast Track Court, Saidapet, Chennai.

2.Heard Mr.B.Kumarasamy, learned counsel for the petitioner and Mr.A.S.Balaji, learned counsel for the respondent.

3.The respondent has filed a complaint against A1 to A3 for offence u/s.138 of the Negotiable Instruments Act, 1881. On carefully reading the complaint, it is seen that the cheque was issued by A2 in his individual capacity and this cheque was dishonoured which resulted in the filing of the complaint. It is also clear from the statutory notice issued by the respondent dated 31.5.2022 that it was issued only to A2 and not to the petitioner. However, the petitioner has been made as an accused in this case.

4.In the considered view of this Court, only the drawer of the cheque can be made as an accused for an offence u/s.138 of the Negotiable Instruments Act, 1881. The only exemption is provided u/s.141 of the Negotiable Instruments Act, 1881, if the cheque is issued on behalf of a Company or on behalf of the Partnership Firm. In this case, admittedly the cheque was issued by A2 in his individual capacity. Therefore, there is no question of adding the petitioner (A3) as an accused in this case. That apart, no notice was served on the petitioner before the complaint was



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5.In the light of the above discussion, the continuation of the proceedings as against the petitioner will result in an abuse of process of Court and it requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

6.In the result, the proceedings in STC.No.6836 of 2022, pending on the file of the V Fast Track Court, Saidapet, Chennai, is quashed insofar as the petitioner (A3) is concerned. The Court below shall proceed further with the case against the other accused persons and complete the proceedings in STC.No.6836 of 2022, within a period of four weeks from the date of receipt of copy of the order.

7.In the result, this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

05.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
KP

To

V Fast Track Court, Saidapet
Chennai.

N. ANAND VENKATESH,, J.



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