



WEB COPY



CrI.O.P.No.31252 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.31252 of 2024

and

CrI.M.P.No.17783 of 2024

C.Karunakaran

... Petitioner

Vs.

J.Govindarajan

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./ 528 BNSS, 2023, to call for the records in S.T.C.No.162 of 2023 on the file of the learned Fast Track Court, Magisterial Level, Ambattur and quash the proceedings therein.

For Petitioner : Mr.A.Murugavel

ORDER

This Criminal Original Petition is filed to quash the proceedings in S.T.C.No.162 of 2023 on the file of the learned Fast Track Court, Magisterial Level, Ambattur, initiated by the respondent against the petitioner under Section 138 of Negotiable Instruments Act, 1881.

2. The respondent/complainant filed a complaint against the



CrI.O.P.No.31252 of 2024

petitioner alleging that the petitioner appointed the respondent as Power Agent of one Aathilakshmi, who is the close relative of the petitioner and agreed to sell the property for a sum of Rs.11,81,400/- to the petitioner's wife and that the respondent demanded the sale consideration from the petitioner, however, the petitioner issued two cheques to discharge the liability. When the cheques were presented for collection, the same were returned. Hence, after causing notice, complaint has been filed in S.T.C.No.162 of 2023 on the file of the Fast Track Court, Magisterial Level, Ambattur. The petitioner has already filed a petition in CrI.O.P.No.22658 of 2023 challenging the proceedings in S.T.C.No.162 of 2023 before this Court. This Court, by an order dated 08.02.2024 dismissed the petition and directed the petitioner to raise all the grounds before the Court below. Now, the petitioner has come forward with the present petition challenging the very same proceedings in S.T.C.No.162 of 2023.

3. The learned counsel for the petitioner submitted that the respondent herein is the Power Agent of one R.Adhilakshmi. The said Adhilakshmi has filed a suit against the respondent as well as the petitioner herein and others before the Principal District Judge, Tiruvallur



CrI.O.P.No.31252 of 2024

in O.S.No.292 of 2024 for declaration and for permanent injunction and the same is pending. Therefore, the respondent has lost his right to continue the proceedings in S.T.C.No.162 of 2023.

4. On a perusal of the records, it is seen that the petitioner has already filed a petition in CrI.O.P.No.22658 of 2023 challenging the proceedings in S.T.C.No.162 of 2023 before this Court and this Court by an order dated 08.02.2024 dismissed the petition. Now the petitioner has filed the present petition stating that a civil suit has been filed and the same is pending. Mere filing of civil suit is not a bar for proceed with the case filed under Section 138 of Negotiable Instruments Act in S.T.C.No.162 of 2023.

5. The scope and the object of civil suit is entirely different from the complaint filed for the offence under Section 138 of Negotiable Instruments Act. Pending civil suit is nothing to do with the complaint filed under Section 138 of Negotiable Instruments Act and it is for the petitioner to prove that the cheques were issued to discharge the legally enforceable debt. Therefore, this Criminal Original petition is dismissed. Consequently, connected miscellaneous petition is closed. However, it is



CrI.O.P.No.31252 of 2024

left open to the petitioner to raise all the grounds before the Court below

in S.T.C.No.162 of 2023.

20.12.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
ms

To

The Fast Track Court,
Magisterial Level,
Ambattur.



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CrI.O.P.No.31252 of 2024

P.VELMURUGAN, J

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CrI.O.P.No.31252 of 2024

20.12.2024