

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2017

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Crl.OP No.24162 of 2011

& M.P.Nos.1 & 2 of 2011

Lakshmi

..Petitioner

Vs

Y.Rathinavasu

..Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the C.C.No.8968 of 2010 pending on the file of the XVIII Metropolitan Magistrate, Saidapet and quash the same.

For Petitioner : Mr.R.Narendran

For Respondent : M/s.G.Justin

O R D E R

The respondent filed a complaint under Section 138 of the Negotiable Instruments Act before the XVIII Metropolitan Magistrate, Saidapet, Chennai alleging that the petitioner borrowed a sum of Rs.2,00,000/- on 27.06.2008 and to discharge a part of the debt, he issued a cheque on 02.07.2009 for a sum of Rs.50,000/-, which was presented for realisation, got dishonoured for the reason of "insufficient funds".

2. The complainant has further stated that he issued a legal notice on 07.07.2009, which returned with an endorsement as "not claimed". Hence, he filed the complaint.

3. The sole accused has filed this quash petition stating that there is no legally enforceable debt and ingredients for the offence are not made out and there is no relationship of borrower and lender and the complaint is an abuse of process of law.

4. It is seen that a private complaint was filed under Section 138 of Negotiable Instruments Act, on the basis that the cheque issued by the petitioner got dishonoured for the reason of "insufficient funds". Even in the quash petition, the signature in the cheque is not disputed by the petitioner.

5. In the above circumstances, whether there exists any relationship of borrower and lender, cannot be decided in this quash petition and it can be decided only by the Trial Court on appreciation of evidence. Hence, I do not find any merit in this quash petition, which is accordingly dismissed. Consequently, connected miscellaneous petitions are closed.

-Sd/-

Assistant Registrar

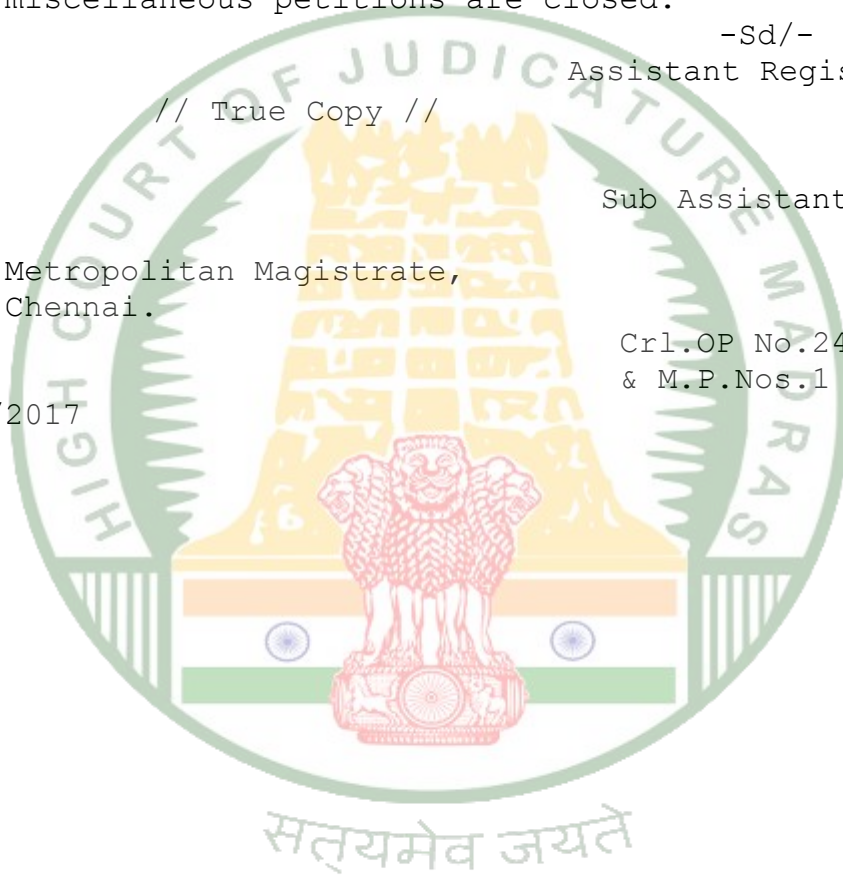
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Sub Assistant Registrar

To
The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

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RRI 30/10/2017



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