

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2018

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.23963 of 2018

and

Crl.M.P.Nos.13545 & 13546 of 2018

M/s.Pamusa

Rep. by its Proprietor,
Kamalesh Rathnam,
Door No:41, Padayachiyur,
Kalyanagiri PO, Attur Taluk,
Salem - 636 117.

.. Petitioner

Vs

M/s.Daimler Financial Services India Pvt. Ltd.

Having its Registered Office at
Unit 201, 2nd Floor, Campus 3B,
RMZ Millennia Business Park,
No.143 Dr. MGR Road,
Perungudi, Chennai - 600 096.

Represented by its Authorised Representative
K.Ramakrishna

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records relating to the proceedings in
C.C.No.3175 of 2018 on the file of the Hon'ble Metropolitan
Magistrate Fast Track Court-1, Egmore and quash the same and
allow this Criminal Original Petition.

For Petitioner : Ms.M.Sneha

O R D E R

This Criminal Original Petition has been filed to call for
the records relating to C.C.No.3175 of 2018 on the file of the
Metropolitan Magistrate Fast Track Court No.I, Egmore, and quash
the same and allow this Criminal Original Petition.

2. The petitioner is the accused in C.C.No.3175 of 2018 on
the file of the Metropolitan Magistrate Fast Track Court No.I,

Egmore, Chennai, for the offence under Section 138 of the Negotiable Instruments Act.

3. For the sake of convenience, the parties will be referred to as accused and complainant.

4. It is the case of the complainant that the accused had availed finance for the purchase of 'New Bharat Benz' vehicle and had defaulted in paying the EMI towards the debt of Rs.1,76,484/-. The accused has issued the impugned cheque dated 13.06.2017, which, when presented by the complainant was returned unpaid, on 11.09.2017 due to insufficiency of funds. Thereafter, the complainant issued a statutory notice dated 22.09.2017 to the accused. Since, the accused did not make the payment, the complainant had initiated the aforesaid prosecution, for quashing which, the accused is before this Court.

5. Heard the learned counsel for the accused who submitted that after the cheque was dishonored, much water has flown under the bridge inasmuch as, arbitration proceedings had commenced and then, an award has also been passed against the accused, in which, there is a reference to the impugned cheque and the loan transaction. She further brought to the notice of this Court an e-mail dated 20.07.2017, wherein the outstanding amount is only for two installments.

6. In the opinion of this Court, disputed questions of fact cannot be gone into, in a petition under Section 482 Cr.P.C.

7. The petitioner/accused is directed to appear before the trial Court within a period of two weeks from the date of receipt of a copy of this order and on such appearance, shall execute a bond for Rs.10,000/- without sureties under Section 88 Cr.P.C. The trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order, provided the petitioner/accused co-operates and there is no legal impediment.

With the above directions, this Criminal Original Petition is closed with liberty to the petitioner/accused to raise all the points before the trial Court. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mkn/ssr

To

The Metropolitan Magistrate,
Fast Track Court at Magisterial Level-i,
Egmore, Chennai.

Cr1.O.P.No.23963 of 2018

CSL/24.10.2018



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