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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.24362 OF 2017

AND

CRL.M.P.NOS.14083 & 14084 OF 2017

Dongari Raju

... Petitioner

Vs.

L&T Finance Limited,
Having its registered office at
15th Floor, "Rupa Solitaire",
Millennium Business Part,
Sector I, Building I A,
Mahape Mumbai - 400 710,
and its Branch Office,
KGN Towers, 5th Floor,
No.62, Ethiraj Salai,
Egmore, Chennai - 600 105,
Represented by its Assistant Manager - Litigators Cum
Power of Attorney Holder,
K.N.Trivikram

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.3662 of 2017 dated 10.04.2017 on the file of the XIV Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai, and quash the same.

For Petitioner : Mr.V.Illanchezian

For Respondent : Mr.D.Pradeep Kumar

O R D E R

This Criminal Original Petition has been filed to quash the complaint in C.C.No.3662 of 2017 dated 10.04.2017 on the file of the XIV Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai, for the offence under Section 138 of the Negotiable Instruments Act.



2.The main grounds urged by the learned counsel for the petitioner before this Court are that, the cheque was not issued within the jurisdiction of this Court and there is no legally enforceable debt and the respondent has also initiated arbitration proceedings for the entire amount.

3.Heard the learned counsel on either side and perused the materials available on record.

4.This Court is of the view that, mere initiation of arbitration proceedings by the complainant cannot be a ground for quashment of the criminal proceedings against the accused, at the pre-trial stage. With regard to the other contentions of the learned counsel that the cheque was not issued within the jurisdiction of this Court and there is no legally enforceable debt, those issues are factual and triable issues, which have to be decided only by way of a full fledged trial and not otherwise under Section 482 of Code of Criminal Procedure. The above view of this Court is fortified by the decision of the Hon'ble Supreme Court in STATE OF HARYANA AND OTHERS Vs. BHAJANLAL AND OTHERS 1992 Supp (1) Supreme Court Cases 335, wherein, the Hon'ble Supreme Court has held that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection.

5.In such view of the matter, this Court is of the view that, quashing of the case cannot be considered at this point of time. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

6.It is for the petitioner to take all his defence before the trial Court. The petitioner/accused is directed to appear before the trial Court within two weeks from the date of receipt of a copy of this order and file an application under Section 436 of Code of Criminal Procedure. On such filing of the application, the trial Court is directed to release the petitioner on bail on the same day on he executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties. If thereafter, he absconds, a fresh FIR can be registered under Section 229-A of the Indian Penal Code.

7.At this juncture, the learned counsel appearing for the petitioner seeks indulgence of this Court to grant an order dispensing with the personal appearance of the petitioner. Accordingly, the personal appearance of the petitioner before the trial Court is dispensed with, except for receipt of copies, answering the charges, questioning under Section 313 Cr.P.C.,



passing of judgment, or on any other date as may be required by the trial Court.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The XIV Metropolitan Magistrate,
Fast Track Court No.II,
Egmore, Allikulam,
Chennai.
2. The Chief Metropolitan Magistrate,
Fast Track Court No.II,
Egmore, Allikulam,
Chennai.

Cr1.O.P.No.24362 of 2017

SPD(CO)
RLP(15/12/2021)