



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2022

CORAM:

THE HON'BLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.3058 of 2020

G.Mahesh Shankar

.. Petitioner

Vs.

Divya

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C praying to direct the Fast Track Court-II/Judicial magistrate, Coimbatore to dispense with the production of the original cheque bearing No.370351 of Central Bank of India, R.S puram, Coimbatore in C.C S.R.No.24273 of 2018.

For Petitioner : Ms. S. Vennila

For Respondent : Mr.S.Sriram

ORDER

The petitioner being aggrieved by not entertaining the file under Section 138 of Negotiable Instruments Act for non production of original cheque has come before this invoking Section 482 of Cr.P.C seeking direction to the trial Court to receive secondary evidence of the original document namely cheque bearing number 370351 of Central bank of India, R.S. Puram Branch, Coimbatore for a sum of Rs.9,60,000/- drawn in favour of the petitioner G.Mahesh Shankar.

2. From the reading of the petition, this Court finds that the petitioner herein has presented a cheque issued by the respondent for collection and the same returned as "funds insufficient". The said cheque was returned on 21.01.2017 along with memo, it appears to have been lost by the petitioner herein. Subsequently under this circumstances, the petitioner had presented his complaint before the learned Judicial Magistrate No.1 Coimbatore with the photo copy of the cheque. The Registry of the Judicial Magistrate has returned the complaint by saying that for want of production of original cheque. If the petitioner is in possession of original document, appropriate application has to be taken for accepting the secondary evidence. In this case, the petitioner's counsel



states that memo was filed to that effect and the same was returned. In the said circumstances, it is suffice to direct the petitioner herein to re-present the complaint along with petition to receive the secondary evidence and on such presentation, the Judicial Magistrate shall consider the merits of the case and pass appropriate order and proceed in accordance with law.

3. With the above directions, this Criminal Original Petition is disposed of .

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

pbl/vv

To

1. The Judicial Magistrate I,
Coimbatore.
2. The Fast Track Court/
The Judicial Magistrate,
Coimbatore.

+1cc to Ms. S. Vennila, Advocate SR.No.27432

+1cc to Mr.K.Govi Ganesan, Advocate SR.No.27437

Cr1.OP.No.3058 of 2020

PM (CO)
GMY (09/05/2022)