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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.8705 of 2022
and
Crl.M.P.Nos.5071 & 5074 of 2022

P.Thirumurugan ... Petitioner

Vs.

R.Srinivasan ... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the records pertaining to the impugned private complaint in S.T.C.No.2898 of 2021 on the file of the Fast Track Court-II, Allikulam and quash the same as illegal.

For Petitioner : Mr.K.Sankar

O R D E R

The Criminal Original Petition has been filed to call for the records pertaining to the impugned private complaint in S.T.C.No.2898 of 2021 on the file of the Fast Track Court-II, Allikulam and quash the same.

2. The respondent has filed private complaint in S.T.C.No.2898 of 2021 against the petitioner/accused for the offence under Section 138 of Negotiable Instruments Act, in respect of dishonour of cheques bearing Nos.132412 & 132421 dated 27.08.2021 drawn on State Bank of India, Mogappair west Branch, Chennai, each for a sum of Rs.20,00,000/-.

3. Learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that petitioner

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was doing real estate business. During the year 2014, the respondent approached the petitioner for buying land. For such land transactions, the petitioner had handed over the cheques and the de-facto complainant had illegally removed the cheques and by misusing the same, had filed a false complaint. He would further submit that there is no legally enforceable debt on the part of the petitioner and he is not liable to pay any amounts to the complainant. Thereby, he seeks to quash the complaint in S.T.C.No.2898 of 2021.

4. Heard the learned counsel and perused the materials available on record.

5. The Court is of the opinion that the grounds raised by the petitioner are factual in nature and it cannot be decided at the outset in a quash petition and the grounds raised are matter for trial and the quash petition has no merits and is liable to be dismissed.

6. At this juncture, the learned counsel appearing for the petitioner would pray that the personal appearance of the petitioner before the trial Court, may be dispensed with.

7. Accepting the said submission, the presence of the petitioner before the Trial Court shall be dispensed with on condition that he shall be present on the date fixed for questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the Trial Court for the purpose of identification.

8. The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event his presence is insisted by the trial Judge for the purpose of identification. If the petitioner adopts any dilatorial tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667.

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9. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petition in Crl.M.P.No.5071 of 2022 stands closed and Crl.M.P.No.5074 of 2022 stands ordered.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
The Fast Track Court II
Allikulam, Chennai

Crl.O.P.No.8705 of 2022
and Crl.M.P.Nos.5071 & 5074 of 2022

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SP(16/05/2022)

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