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Crl.O.P.No.15119 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.15119 of 2019

and

Crl.M.P.No.7374 and of 2019

Prakash

... Petitioner /2nd respondent

-Vs.-

M/s.Paceman Finance India Ltd.,
Rep. By Mr.T.Prakash,
Crescent Court, Suit No.21,
3rd Floor, No.963, Poonamallee High Road,
Chennai 600 084.

...Respondent/
Complainant

Prayer :- Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records in C.C.No.5160 of 2018 pending on the file of the learned Metropolitan Magistrate No.II, Fast Track Court, Egmore and quash the same with respect to the 2nd respondent.

For Petitioner	:	Mr.S.N.Subramani
For Respondent	:	No appearance



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ORDER

The learned counsel for the petitioner though claims that the petitioner herein is no way connected with the Company M/s.Gold and Light, which is the drawer of the cheque, the reply notice sent on behalf of Gold and light company and the Certificate of imports and exports annexed in the typed set of papers indicate it is a proprietary concern owned by one Flora Prakash, who is none other than the wife of the petitioner herein. The defacto complainant, who is the respondent in this case though served notice in the quash petition, he has neither entered appearance through counsel or appeared in person. In the complaint itself, it is specifically stated that Gold and light trader is a proprietary concern owned by Mr.Prakash and the cheque was issued by Prakash to discharge the debt. Whereas on the face of the record, the subject cheque been issued by Gold and light signed by the authorised signatory Flora prakash, who is the proprietor of the Firm as per the Certificate of Registration. Therefore, the petitioner prakash is neither the signatory of the subject cheque nor the account from which the cheque is drawn is maintained by him. It is to be noted that to the statutory notice caused to



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the firm as well as Prakash in his individual capacity and reply dated 24.10.2017 has been caused wherein it is specifically stated that the said Prakash is no way concerned with the firm named M/s.Gold and Light. Instead of verifying the details, the case has been filed against M/s.Gold and light represented by its Proprietor Mr.Prakash and also in his personal capacity as authorised signatory and proprietor. The record clearly indicates that Prakash is not the authorised signatory and he has not signed the subject cheque as the proprietor of M/s.Gold and Light Company.

2. In the said circumstances, the Criminal complaint filed under Section 138 of Negotiable Instruments Act is unsustainable. Hence, this petition is allowed and the criminal complaint filed against these petitioners are quashed. Consequently, the connected miscellaneous petition is closed.

27.09.2022

Speaking/Non-speaking order
Index: Yes/No
Internet : Yes/No
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To
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- 1.The Inspector of Police,
District Crime Branch,
Namakkal, Namakkal District.
- 2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

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