



CrI.O.P.Nos.16433 & 16596 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.16433 & 16596 of 2021

and

CrI.M.P.No.8977, 8979, 9071 & 9072 of 2021

Farzeen Khan

... Petitioner in both CrI.O.P's

/vs/

K.Shanmugam

Rep by its Power of Attoney

S.Krishnaswamy

... Respondent in both CrI.O.P's

Prayer in CrI.O.P.No.16433 of 2021 : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records in C.C.No.1790 of 2018 on the file of IV-Fast Track Metropolitan Magistrate Court, George Town, Chennai and quash the same.

Prayer in CrI.O.P.No.16596 of 2021: Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records in C.C.No.1787 of 2018 on the file of IV-Fast Track Metropolitan Magistrate Court, George Town, Chennai and quash the same.



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For Petitioner ... Mr.P.Sathyanathan
in Crl.O.P.No.16433 of 2021

COMMON ORDER

The Criminal Original Petitions have been filed to call for the records pertaining to C.C.Nos.1787 and 1790 of 2018 on the file of IV Fast Track Metropolitan Magistrate Court, George Town, Chennai.

2. Heard the learned counsel for the petitioner.

3. The learned counsel for the petitioner submitted that in both the petitions the petitioner had mentioned about the mortgage deed dated 23.03.2015 which is registered in Document No.690 of 2015 on the file of Sub Registrar Joint-II, Saidapet; but, the petitioner had stated different outstandings of Rs.21,76,000 and Rs.34,50,000 in both the complaints and for which four cheques dated 19.01.2018 and 26.02.2018 were issued; since, the respondent complainant had misused the cheques issued by the



petitioner and filed two complaints based upon the same mortgage deed, but for different sums.

4. On perusal of records it is seen that in the case pertaining to C.C.No.1787 of 2018, the impugned cheques are issued on 19.01.2018 for Rs.16,00,000/- and Rs.5,76,000/- respectively, in the other complaint pertaining to C.C.No.1790 of 2018, the impugned cheques dated 26.02.2018 were issued for the amount of Rs.25,00,000/- and Rs.9,50,000/- respectively. Both the complaints speak about the same mortgage deed dated 23.03.2015. But the averments of the complaint would read that the mortgage is an equitable mortgage.

5. The learned counsel for the petitioner has furnished the mortgage deed dated 23.03.2015 which appears to be a simple mortgage deed. Since the above contradictions can be clarified only when the witnesses are put to examination, it is appropriate to direct the learned IV-Fast Track Metropolitan Magistrate, George Town, Chennai, to try both the cases



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simultaneously. However, it is open to the petitioner to raise her contentions which are made before this Court as her defence before the trial Court.

6. With these observations, the Criminal Original Petitions stand disposed of. Consequently, connected miscellaneous petitions are closed.

21.12.2022

Index: Yes/No
Internet: Yes/No
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To

1. The IV-Fast Track Metropolitan Magistrate Court,
George Town,
Chennai.



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R.N.MANJULA ,J.

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