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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.21045 of 2021

&

CRL.M.P.No.11434 & 11435 of 2021

S.Shiva

... Petitioner

Versus

Manikandan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case in STC No.78 of 2021 on the file of the Judicial Magistrate Court No.2, Mettur and quash the same.

For Petitioner : Mr.C.Deepak Kumar.

ORDER

The contention of the petitioner is that the petitioner is accused in STC No.78 of 2021 for trial for the offence under Section 138 of N.I. Act on the complaint of the respondent.

2.The contention of the petitioner is that the petitioner and the respondent are friends. During the month of May 2020, the petitioner is said to borrowed a loan of Rs.8,00,000/- and agree to pay within 3 months. Subsequently, he has not paid the amount and after repeated demands a cheque, dated 19.11.2020 drawn on HDFC Bank, Puthusampalli Branch handed over to the petitioner. Thereafter, the cheque was deposited and returned for insufficient funds, hence, a complaint has been lodged by the respondent.

3.The primary grounds on which the petitioner assails this quash application is that the petitioner was admitted in the Care & Cure Foundation from 14.10.2020 and was discharged only on 16.12.2020. He was taking treatment for de-addiction and rehabilitation. In view of the same, the petitioner could not have issued the cheque, dated 19.11.2020, hence prayed for quashing.



4.It is seen that the petitioner's contention is factual one, it is otherwise on the other form of alibi, which has to be necessarily decided in trial and not in the quash application.

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5.In view of the same, this Court is not inclined to allow this petition. Hence, the above Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mpl/rkp

To

The Judicial Magistrate Court No.2,
Mettur.

CRL.O.P.No.21045 of 2021
&
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