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CRL.O.P.No.26377 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl. O.P. No.26377 of 2022
and Crl.M.P. No.16270 of 2022

V.Gopalakrishnan Garments,
Prop.G.Nithyandam,
No.811, 9th Street, 3rd Cross Street,
S.A.Colony, Vyasarpadi,
Chennai 600 039.

...

Petitioner

Versus

Manoharan

...

Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records and quash all further proceeding in S.T.C.No.1903 of 2022 pending on the file of the learned Fast Track Court No.1, Allikulam, Chennai.

For Petitioner : Mr.M.Karhikeyan

ORDER



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This Criminal Original Petition has been filed seeking to call for the records pertaining to STC.No.1903 of 2022 pending on the file of the Fast Track Court No.1, Allikulam, Chennai and quash the proceedings.

2. The petitioner is the accused against whom the respondent/defacto complainant has given a compliant for the offence under Sec.138 of Negotiable Instruments Act.

3. The learned counsel for the petitioner submitted that the impugned cheque was missing and in this regard there is a declaration executed between himself and one Marimuthu.

4. According to the contention of the petitioner, the cheque books containing the impugned cheque also was issued to Marimuthu in view of some loan availed from him. The said Marimuthu had lost the cheque book and that was misused by the respondent to file this complaint. The further contention of the petitioner is that the respondent is not known to the petitioner and hence, there is no basis for the case filed against the petitioner for the offence under Section 138 of NI Act.



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5. On perusal of the records especially the averments made in the complaint, it is seen that there is a cheque bearing No.523731 dated 01.02.2022 was issued for a sum of Rs.1,40,000/- and that was returned for want of sufficient funds.

6. It is needless to state that as per Section 139 of NI Act, there is a presumption in favour of the holder of the cheque. The petitioner can raise all his defense only during the course of trial. The petitioner had made out a *prima facie* case. The petitioner had filed a complaint under Section 138 of NI Act after complying the mandates prescribed under the Negotiable Instruments Act and only on that basis the case has been taken on file. I do not find that it is a bald case which should be quashed at the threshold.

In the result, this Criminal Original Petition stands **dismissed**. Consequently, connected miscellaneous petition is also dismissed.

02.11.2022

Index: Yes/No
jrs



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CRL.O.P.No.26377 of 2022

R.N.MANJULA, J.,

jrs

To:

The Fast Track Court No.1,
Allikulam, Chennai.

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and Crl.M.P. No.16270 of 2022

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