



Crl.O.P No.26680 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **03.11.2022**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.26680 of 2022

and

Crl.M.P.Nos.16401 & 16402 of 2022

M.Bharathi

... Petitioner

Vs.

M.S.Ravichandran

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to CC.2894/2018 from the file of Metropolitan Magistrate Court, FTC -I Allikulam Egmore, Chennai and quash the same.

For Petitioner : Mr. C.Appavu



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ORDER

This petition is filed to call for the records relating to C.C.No.2894 of 2018 from the file of Metropolitan Magistrate Court, FTC-I Allikulam Egmore, Chennai and quash the same.

2. The learned counsel for the petitioner submitted that a private complaint has been given by the respondent against the petitioner for the offence under Section 138 of Negotiable Instruments Act. The contention of the learned counsel for the petitioner is that the cheque issued by the petitioner in the year 2014 was misused by the *de facto* complainant only for the purpose of filing the present case for which the petitioner is not liable.

3. It is needless to state that under Section 138 of Negotiable Instruments Act, when the execution of cheque is admitted, there is presumption that the amount involved in the cheque is for a legally enforceable debt or liability. It is open to the petitioner to raise his defense or as his rebuttal proof based on materials while contesting the case. Since there are *prima facie* materials available before the trial Court in order to



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make out a case for offence under Section 138 of Negotiable Instruments

Act, I do not feel that it is an appropriate case where the powers of this Court should be invoked under Section 482 Cr.P.C. to quash the proceedings.

4. In view of the above stated reasons, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking Order : Yes / No

bkn

To:

The Metropolitan Magistrate,
FTC -I Allikulam, Egmore,
Chennai.



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R.N.MANJULA, J.,

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