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Crl.O.P.No.28413 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2022

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.28413 of 2022 and
Crl.M.P.Nos.17460 & 17463 of 2022

Sri Thenandal films,
Rep. By its Authorised signatory,
Mr.N.Ramasamy
Authorised signatory of Sri Thenandal Films,
Son of Mr.RM Narayanan,
No.14/19, Saraswathi Street,
Mahalingapuram,
Chennai – 34.

M.Ramasamy

...Petitioners

Vs.

NarendraHarlalka HUF
Represented by its Karta,
Mr.Narendra Harlalka,
Son of Late DevkinandanHarlalka, Harlalka,
Trieni House,
No.6A Govindan Street,
Aminjilkarai, Chennai 600 029.

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for records relating to S.T.C. No.5113 of 2022 on the file of the FTC-II, Metropolitan Magistrate Egmore at Allikulam, Chennai and quash the same.



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For Petitioner : Mr.S.Karthikei Balan

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ORDER

This Criminal Original Petition is filed to quash the proceedings in S.T.C. No.5113 of 2022 on the file of the FTC-II, Metropolitan Magistrate Egmore at Allikulam, Chennai.

2. The learned counsel for the petitioner submitted that the complaint has been lodged without stating whether the amount pertains to the cheque is for legally enforceable debt or liability. The respondent has not stated about this fact neither in his complaint nor in any of the notices sent to the petitioner.

3. Insofar as the case under Section 138 of the Negotiable Instruments Act is concerned, the complainant is entitled to an initial presumption with regard to the liability as contemplated under Section 138 of the Negotiable Instruments Act. The learned counsel for the petitioner submitted that the trial has already been commenced and the matter is posted for examination of the complainant. The grievance of the petitioner is that he has been present for several hearings from morning till evening and so his presence



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should be dispensed with. The petitioner is at liberty to participate in trial and prove the facts now alleged by him during trial. The petitioner is also at liberty to file a petition to dispense with his appearance. On such petition being filed, the learned Metropolitan Magistrate cum Fast Track Court – II, Allikulam, Chennai shall consider the same liberally, unless the petitioner's presence is indispensable for any hearing.

4. With the above observation, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

21.11.2022

vum

Index:yes/No

Speaking order / Non speaking order



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R.N.MANJULA,J.

vum

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