



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.29317 OF 2017 &
CRL.M.P.NOSS.16586 & 16587 OF 2017

Venkatesan PTC

...Petitioner / Accused

Vs

Goutam Chand Jain

...Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for records pending on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai in C.C.No.1148 of 2014 and to quash the same.

For Petitioner : Mr.G.Jeremiah

For Respondent : --

O R D E R

This petition has been filed to quash the private complaint in C.C.No.1148 of 2014, pending on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai filed under section 138 of Negotiable Instruments Act.

2. The main contention of the petitioner is that the petitioner had not borrowed any amount from the respondent and there is no legally enforceable debt against the petitioner. Hence, sought to quashing the proceedings in C.C.No.146 of 2014 on the file of learned Metropolitan Magistrate, Saidapet, Chennai.

3. Whether there is enforceable debt or not, has to be gone into during the trial and the onus lies on the petitioner to dislodge the legal presumption attached to section 139 of the Negotiable Instruments Act. The same has to be decided only after the trial and this Court cannot do roving enquiry at this stage. In such view of the matter, this Court is not inclined to entertain this petition.

4. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are



closed. The accused is directed to appear before the trial Court within two weeks from the date of receipt of a copy of this order and file an application under Section 436 of Code of Criminal Procedure. On such filing of the application, trial Court is directed to release the petitioners on bail on the same day on executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties. If thereafter, he absconds, a fresh FIR can be registered under Section 229 A of the Indian Penal Code.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

vrc/kbs

To

The IX Metropolitan Magistrate,
Saidapet,
Chennai.

Crl.O.P.No.29317 of 2017 &
Crl.M.P.Nos.16586 & 16587 of 2017

VG-II(CO)
RVM(21/01/2022)