



Crl.OP.No.31691 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 22.12.2022

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.Nos.31691, 31695, 31694 & 31693 of 2022
& Crl.M.P.Nos.19394, 19399, 19398 & 19396 of 2022

In all Criminal O.P.'s:-

M.Rajkumar

...Petitioner

Vs.

M/s.Sree Gokulam Chit Finance Co., (P) Ltd.,

Represented by its Authorized person,

Mr.R.Harikrishnan

S/o.Ramasamy

Assistant Manager,

Regional Office,

Sree Gokulam Towers,

100 feet road, 7th street,

Gandhipuram,

Coimbatore – 641 012.

... Respondent

PRAYER in Crl.O.P.No.31691 of 2022: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 01.09.2022 passed by the learned Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore in C.M.P.No.2090 of 2022 in C.C.No.33 of 2017 in respect of not directing the respondent to produce the unfilled promissory note (3rd



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listed Document) Day Book (5th listed document) and Bank Statement (7th and 8th listed document).

PRAYER in Crl.O.P.No.31695 of 2022: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 01.09.2022 passed by the learned Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore in C.M.P.No.2087 of 2022 in C.C.No.30 of 2017 in respect of not directing the respondent to produce the unfilled promissory note (3rd listed Document) Day Book (5th listed document) and Bank Statement (7th and 8th listed document).

PRAYER in Crl.O.P.No.31694 of 2022: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 01.09.2022 passed by the learned Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore in C.M.P.No.2089 of 2022 in C.C.No.32 of 2017 in respect of not directing the respondent to produce the unfilled promissory note (3rd listed Document) Day Book (5th listed document) and Bank Statement (7th and 8th listed document).

PRAYER in Crl.O.P.No.31693 of 2022: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 01.09.2022 passed by the learned Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore in C.M.P.No.2088 of 2022 in C.C.No.31 of 2017 in respect of not directing the respondent to produce the unfilled promissory note (3rd listed Document) Day Book (5th listed document) and Bank Statement (7th and 8th listed document).



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For Petitioner : Mr.L.Mouli
For Respondent : No appearance

COMMON ORDER

Crl.O.P.No.31691 of 2022 has been filed to set aside the order dated 01.09.2022 passed by the learned Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore in C.M.P.No.2090 of 2022 in C.C.No.33 of 2017.

2.Crl.O.P.No.31695 of 2022 has been filed to set aside the order dated 01.09.2022 passed by the learned Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore in C.M.P.No.2087 of 2022 in C.C.No.30 of 2017.

3.Crl.O.P.No.31694 of 2022 has been filed to set aside the order dated 01.09.2022 passed by the learned Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore in C.M.P.No.2089 of 2022 in C.C.No.32 of 2017.

4.Crl.O.P.No.31693 of 2022 has been filed to set aside the order dated 01.09.2022 passed by the learned Judicial Magistrate, Fast Track Court No.1 at



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Magisterial Level, Coimbatore in C.M.P.No.2088 of 2022 in C.C.No.31 of

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5.The learned counsel for the petitioner submitted that petitioner filed petitions under Section 91 of Cr.P.C in Cr.M.P.Nos.2087, 2088, 2089 & 2090 of 2022 in C.C.Nos.30, 31, 32 and 33 of 2017 respectively, for the production of documents listed in the petitions by the respondent/ complainant. The learned trial Judge on considering the petition averments, counter averments and submission of learned counsel appearing for the parties allowed the aforesaid petitions in part. That is, the respondent was directed to produce item Nos.1, 2, 4 and 9 of the documents. In so far as item No.3 of the document is concerned, it was on the basis of the submission made by the respondent that respondent had not received any unfilled promissory note, the relief in respect of item No.3 of the documents was negatived. With regard to item Nos.7 and 8 of the documents, liberty was given to the petitioner to summon the concerned Bank for production of statements.



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6.He further submitted that petitioner is more concerned about item No.5 of the documents, namely Day Book in respect of Chit Group Nos.G2L/0450/KDM/13, G2L/0450/KDM/14, G2L/0450/KDM/15 & G2L/0450/KDM/16. The respondent filed counter stating that this document is mis-placed and not available with the respondent. However, when the respondent was cross-examined, he admitted that the chit transactions are entered in a Day Book and Ledger Book which are maintained by the respondent; amount paid by the accused/petitioner are entered in the Day Book and Ledger Book and he can produce the Day Book and Ledger Book in the Court. When he admitted that he can produce the Day Book and Ledger Book in the Court, the counter filed stating that these registers are mis-placed is nothing but a false statement to avoid production of the documents. He further submitted that if these documents are produced, petitioner would be in a position to prove his case. Petitioner was not liable to pay any amount to the respondent. The learned trial Judge taking into account the counter filed by the respondent that these documents should not be traced due to lack of time, rejected the claim of the petitioner in respect of these documents. Therefore, these petitions.



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7. From the facts narrated above, it is clear that the respondent had taken contradictory position with regard to availability of aforesaid documents. When cross-examined, he admitted that the Cash Book, Day Book and Ledger Book are maintained in respect of the chit transactions and they can be produced in the Court. However, in the counter filed it is said that these documents are misplaced. There is a stark contrast in the case set up by the respondent with regard to availability of these documents. It is obvious that respondent is making false statement in the counter. Therefore, the orders dated 01.09.2022 passed in Cr.M.P.Nos.2087, 2088, 2089 & 2090 of 2022 in C.C.Nos.30, 31, 32 and 33 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court No.1 at Magisterial Level, Coimbatore, rejecting the petitioner's claim for the production of item No.5 of the aforesaid documents are set aside. The respondent is directed to produce item No.5 of the documents in the aforesaid cases for the purpose of marking as a document. In case the respondent could not produce the documents, trial Court can draw adverse inference against the respondent for non-production of the document.



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8. Accordingly, these Criminal Original Petitions are disposed of.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking / Non Speaking order

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G.CHANDRASEKHARAN,J.

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