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Crl.O.P.No.5569 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.03.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.5569 of 2023
and
Crl.M.P.Nos.3483 and 3485 of 2023

R.Gunasekaran

...Petitioner

Vs.

D.Arun Pradeep
Proprietor of Arun Traders & Company
D.No.664, Kovai Road,
Kangayam Town,
Thirupur District.

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in STC.No.153 of 2022 for offence punishable under Section 138 of Negotiable Instrument Act, pending before the Judicial Magistrate, Kangayam, Tirupur District and quash the same.

For Petitioner : Mr.S.Senthil

ORDER



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This Criminal Original Petition has been filed calling for the records in STC.No.153 of 2022 for the offence punishable under Section 138 of Negotiable Instruments Act, pending before the Judicial Magistrate, Kangayam, Tirupur District and to quash the same.

2. The learned counsel for the petitioner submitted that the respondent filed a case under Section 138 of Negotiable Instruments Act alleging the dishonor of cheque issued for the purpose of discharging the debt of Rs.33,00,000/-. It is the submission of the learned counsel for the petitioner that the cheque impugned was stolen from the petitioner and misused for the purpose of filing this case.

3. Considered the submission of the learned counsel for the petitioner and perused the materials available on record.

4. It is seen from the complaint that the respondent alleges that the



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petitioner borrowed a sum of Rs.33,00,000/- from the respondent on various dates. To discharge his loan, the petitioner said to have issued a cheque for a sum of Rs.33,00,000/- on 12.01.2022, drawn on State Bank of India, Kangayam. The respondent presented the cheque for collection on 12.01.2022 through Federal Bank Limited, Kangayam. The cheque was returned for the reason “Payment Stopped by Drawer”, on 04.02.2022. Therefore, the respondent issued a statutory notice on 26.02.2022 regarding the payment. After receiving the notice on 01.03.2022, the petitioner had sent a reply containing false allegations, on 11.03.2022 and did not pay the amount. Therefore, this case is filed.

5. As per the submissions of the learned counsel for the petitioner, the petitioner had given a complaint with regard to the theft of the aforesaid cheque, on 12.02.2022. It is obvious that the complaint was given after the impugned cheque was presented for collection on 12.01.2022. Therefore, the submission of the learned counsel for the petitioner that the stolen cheque was used for the purpose of filing the case, is a matter to be



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considered before the Trial Court. This Court cannot go into this disputed fact.

6. In view of the above, this Court finds no merits in this petition. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

10.03.2023

mn

Index: Yes/No

Speaking Order: Yes/No



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G.CHANDRASEKHARAN.J.,

mn

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