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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 01.08.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH**

**Crl.O.P Nos.1886 & 1887 of 2023**  
**and Crl.M.P Nos.1099 & 1100 of 2023**

Mrs.G.Shanthi

Petitioner  
in both Crl.O.Ps

vs.

Mrs.N.Chitra

Respondent  
in both Crl.O.Ps

**PRAYER in Crl.O.P.No.1886 of 2023:** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.41039 of 2022 in S.T.C.No.7525 of 2022 (pending on the file of the Fast Track Court-II, Egmore, Allikulam, Chennai) and set aside the order passed in Crl.M.P.No.41039 of 2022 in STC No.7525 of 2022 dated 10.01.2023 passed by the Fast Track Court II, Egmore, Allikulam, Chennai.

**PRAYER in Crl.O.P.No.1887 of 2023:** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.41038 of 2022 in S.T.C.No.7526 of 2022 (pending on the file of the Fast Track Court-II, Egmore, Allikulam, Chennai) and set aside the order passed in Crl.M.P.No.41038 of 2022 in STC No.7526 of 2022 dated 10.01.2023 passed by the Fast Track Court II, Egmore, Allikulam, Chennai.



**In Both Cases**

For Petitioner : Mr.M.A.Mathew Berchmans

For Respondent : Mr.T.R.Ravi

**ORDER**

These petitions have been filed challenging the order passed by the Court below dismissing the application filed under Section 91 of Cr.P.C., wherein, the petitioner had sought for a direction to furnish certain documents in order to establish his defense.

2.The respondent filed two complaints against the petitioner for offence under Section 138 of the Negotiable Instruments Act. Even before the complaint was given, there were exchange of notices between the parties and the defense that is going to be taken by the petitioner in each complaint has also been clearly spelt out in the reply notice that was given by the petitioner for the statutory notice. The case was at the stage of cross-examination of PW1. At this stage, the petitioner filed application under Section 91 of Cr.P.C., to direct the respondent and his daughters to furnish certain documents.

3.The Court below on considering the stage of the case and also the facts and circumstances of the case, came to a conclusion that the documents sought





amount was repaid back to the respondent. The petitioner therefore wants to establish this defense by calling upon the respondent and his daughters to furnish certain documents which according to the petitioner will show that the entire amount has been repaid back.

7.The case is now at the stage of cross-examination of the respondent (PW1). The petitioner has to first cross-examine the respondent by putting all the relevant questions to the respondent. According to the petitioner, there are two modes of repayment of the loan amount. The first was by way of transfer of the amount from the bank account of the petitioner and her son to the Bank account of respondent and her daughters. The next mode of repayment that is claimed by the petitioner is the lease amounts that were transferred by the tenants directly to the bank account of the respondent and her daughters. Insofar as the first set of repayment, the petitioner can always establish the same by producing the bank account particulars of the petitioner and also her son. The other mode of repayment can be established by calling the Bank Manager of the concerned Bank to furnish the relevant details of the payments that were made by the tenants to the account of the respondent and her daughters. By adopting this process, the petitioner can always establish her defence, if really she has repaid back the entire amount.



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8. In view of the above discussion, this Court does not find any ground to interfere with the order passed by the Court below at this stage. However, this order will not come in the way of the petitioner to establish her defence at a later point of time in the proceedings.

9. In the result, both the criminal original petitions are disposed of in the above terms. Consequently, connected miscellaneous petitions are closed.

**01.08.2023**

Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
SSR

To

1. The Fast Track Court-II, Egmore, Allikulam, Chennai.
2. The Public Prosecutor,  
High Court of Madras,  
Madras.



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**N. ANAND VENKATESH., J.**

SSR

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