



CrI.O.P.No.3600 of 2023
and
CrI.M.P.Nos.2267 & 2269 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 17.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.3600 of 2023
and
CrI.M.P.Nos.2267 & 2269 of 2023

Durai Joseph

... Petitioner

Vs.

M.Arvind Bagrecha

... Respondent

This Criminal Original Petition is filed under Section 482 Cr.P.C. to call for the records in CrI.M.P. No.39257 of 2022 in C.C.No.1636 of 2019 on the file of the learned Metropolitan Magistrate Fast Tract Court No.I, Egmore at Allikulam, Chennai and set aside the order passed in CrI.M.P.No.39257 of 2022.

For Petitioner	: Mr.V.R.Balasubramanian
For Respondent	: Mr.P.N.Vignesh



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ORDER

This Criminal Original Petition is filed to set aside the order passed in CrI.M.P.No.39257 of 2022 in C.C.No.1636 of 2019 on the file of the learned Metropolitan Magistrate Fast Tract Court No.I, Egmore at Allikulam, Chennai.

2. Learned counsel for the petitioner submitted that the petitioner filed petition under section 91 Cr.P.C in CrI.M.P.No.39257 of 2022 in C.C.No.1636 of 2019 for production of certain documents by the respondent. The reason for seeking those documents is that the petitioner had not borrowed money as claimed by the respondent and issued the cheque. During the course of cross examination of respondent, he admitted maintaining day-book and ledger for the loan transaction of each and every person for whom money was advanced. Those documents are absolutely necessary to disprove the case of the respondent and prove the case of the petitioner. Without considering the merits in the case of the petitioner, the petition was dismissed. Therefore, this petition.



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3. Learned counsel for the respondent opposed this petition on the ground that this petition is filed only to protract the proceedings. Thus the petition filed at the flag end of the trial was dismissed. Therefore, he prayed for dismissal of this petition.

4. Considered the rival submissions and perused the records.

5. The complaint allegations show that the petitioner said to have borrowed a sum of Rs.5,00,000/- from the respondent and issued a cheque for discharging the said loan. However, this case of the respondent is denied by the petitioner. It is seen from the cross examination of the respondent/PW.1 that he admitted maintaining day-book and ledger in support of the loan transaction. The day-book has details of loan transaction and the ledger will contain details of loan transaction with each and every individual. This Court is of the view that in the light of the defence taken by the petitioner that he had not borrowed money from the respondent, the



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production of day-book and ledger will throw light as to the claim/rival claim of the parties. In this view of the matter, this Court is of the view that the respondent should be directed to produce the documents mentioned in the petition under section 91 Cr.P.C. Therefore, the order passed by the learned Metropolitan Magistrate Fast Tract Court No.I, Egmore at Allikulam, Chennai in CrI.M.P. No.39257 of 2022 in C.C.No.1636 of 2019 is set side. Respondent is directed to produce the documents mentioned in the petition under section 91 Cr.P.C for the purpose of marking them as evidence.

6. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

17.03.2023

mra

Index :Yes/No

Internet:Yes

Speaking Order/Non-speaking Order



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To

1. The Metropolitan Magistrate
Fast Tract Court No.I,
Egmore at Allikulam,
Chennai.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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G.CHANDRASEKHARAN,J.

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