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Crl.O.P.No.4564 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.4564 of 2023
and
Crl.M.P.Nos.2889 & 2890 of 2023

Narayanasamy

...

Petitioner

Vs.

Saminathan

...

Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the proceedings in STC No.411 of 2022 on the file of the Judicial Magistrate No.II, Chidambaram and quash the same.

For Petitioner : Mr. P.Anbazhagan

ORDER

This Criminal Original Petition is filed to call for the records relating to the proceedings in STC No.411 of 2022, on the file of the Judicial Magistrate No.II, Chidambaram and quash the same.



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2.The learned counsel for the petitioner submitted that petitioner has not issued any cheque to respondent. Infact, he gave his cheque to one P.Anbuselvan for security purpose and that cheque is now used by respondent for filing a case against the petitioner. Therefore, he filed this petition for quashing the proceedings in STC No.411 of 2022, on the file of the Judicial Magistrate No.II, Chidambaram.

3.Considered the submissions of learned counsel for the petitioner and perused the records.

4.The complaint allegations in STC No.411 of 2022 shows that petitioner borrowed a sum of Rs.5,20,000/- from respondent on 01.01.2021. To evidence this borrowal, petitioner said to have executed a promissory note on the same date. To discharge this loan amount, petitioner said to have issued a cheque on 09.01.2022 for Rs.5,20,000/- drawn on Karur Vysya Bank Ltd. Respondent presented the cheque for collection on 30.06.2022 through the Tamil Nadu Mercantile Bank Ltd., Chidambaram branch. But, the cheque was returned on 01.07.2022 for the reason that “funds insufficient”. At request of petitioner, respondent re-presented the cheque again on 02.08.2022,



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but again it was returned as “funds insufficient”. On 22.08.2022, respondent issued a statutory notice and that was received by petitioner on 26.08.2022.

Since payment was not made the case came to be instituted.

5. Allegations made in the complaint is that petitioner borrowed a sum of Rs.5,20,000/- and issued a cheque for discharging the debt. On the other hand, it is the submission of the learned counsel for the petitioner that petitioner did not borrow any money from respondent, but the cheque issued to one P.Anbuselvan is misused by respondent for filing the case. This is a disputed fact and this fact cannot be gone into by this Court. The Trial Court has to decide the issue on the basis of the oral and documentary evidence to be produced.

6. In this view of the matter, this petition is dismissed. The concerned learned Judge is directed to dispose the case without being influenced by any of the observations made by this Court in this order.

7. Accordingly, this Criminal Original Petition is dismissed.



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Consequently, connected miscellaneous petitions are also closed.

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Internet:Yes

Index:Yes/No

Speaking/Non speaking order

To:

1.The Judicial Magistrate No.II,
Chidambaram.

2.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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