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Crl.O.P.No.9840 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.9840 of 2023

and

Crl.M.P.No.6468 of 2023

Veeramani

... Petitioner

Vs.

Raja

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.24 of 2023 pending on the file of the learned Fast Track Court (Judicial Magistrate Level) at Kallakurichi and quash the same.

For Petitioner : Mr.M.Jaikumar

ORDER

This Criminal Original Petition has been filed to call for the records in C.C.No.24 of 2023 pending on the file of the learned Fast Track Court (Judicial Magistrate Level) at Kallakurichi and quash the same.

2. It is the submission of the learned counsel for the petitioner that,



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respondent filed a case against the petitioner under section 138 of N.I Act alleging that, petitioner borrowed a sum of Rs. 5 lakhs on 09.10.2022 from the respondent and issued a post dated cheque bearing No.381950 for the said amount. It is also his claim in the complaint that, cheque was presented on 09.12.2023 in the Federal Bank, Kallakurichi, however, it was returned as dishonored on 10.12.2023, stating that “Kindly Contact Drawer Drawee Bank and Please present Again”. It is his further submission that, respondent already filed a suit in O.S.No.34 of 2021 on the file of the III Additional District and Sessions Judge, Kallakurichi alleging that petitioner had borrowed a sum of Rs.10,00,000/- on 09.10.2022 and executed promissory note for discharge of the loan amount. It also claimed that, neither the principal amount nor the interest amount was repaid by the petitioner to the complainant in pursuance of the promissory loan transaction. When the petitioner is fighting with the respondent in the suit in O.S.No.34 of 2021 on the basis of the promissory note dated 15.02.2020, the very claim that the petitioner had borrowed a sum of Rs.5 lakhs on 09.10.2022 and given a post dated cheque for discharging of loan amount is absolutely false.

3. Petitioner has force in his submission that, when already suit for



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recovery of money is pending, the claim made in the complaint that a sum of Rs.5 lakhs was lent to the petitioner on 09.10.2022 is questionable. However, it is a disputed fact and it has to be agitated only before the trial Court.

4. Accordingly, this Criminal Original Petition is dismissed giving liberty to the petitioner to raise his defence before the trial Court. Consequently, connected miscellaneous petition is closed.

08.06.2023

Internet: Yes
Index: Yes/No
Sma

To:

Fast Track Court (Judicial Magistrate Level) at Kallakurichi



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G.CHANDRASEKHARAN, J.
sma

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