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CrI.O.P.No.12348 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.12348 of 2023

Sri Sumangali Graphics, Ishwarya Cards,
Rep by its Managing Partner,
R.Gopalakrishnan,
No.98 I Shanmuga Nagar,
Nocikkattuvalasu,
Mauniyappan Kovil, Erode -2.

... Petitioner

Vs.

S.Thangaraj

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to C.M.P.No.95 and 96 of 2023 in S.T.C.No.14 of 2021 order dt. 08.02.2023 on the file of Judicial Magistrate FTC No.1, Erode and set aside the same.

For Petitioner : M/s.C.Anandha Ramani

For R1 : Mr. Leonard Arul Joseph Selvam
Government Advocate (CrI. Side)



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ORDER

This Criminal Original Petition has been filed to call for the records pertaining to C.M.P.No.95 and 96 of 2023 in S.T.C.No.14 of 2021 order dt. 08.02.2023 on the file of Judicial Magistrate FTC No.1, Erode and set aside the same.

2. The learned counsel for the petitioner submitted that, petitioner filed petition under Section 311 of Cr.P.C for summoning the Manager, Karur Vysya Bank, Chinniyampalayam Branch for production of bank statement of the complainant from 01.01.2019 to 01.10.2019. However, the Manager, who was examined as PW1 has produced the statement only from 01.10.2019. The production of statement from 01.01.2019 to 01.10.2019 is absolutely necessary for proving the case. However, the learned Judicial Magistrate FTC No.I, Erode, without considering the merits in the claim of the petitioner, dismissed the petition filed by the petitioner in CrI.M.P.No.95 and 96 of 2023. Challenging the dismissal order, present petition is filed.



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3. Considered the submissions of the learned counsel for the petitioner

and perused the records. It is seen from the complaint filed under Section 138 of Negotiable Instruments Act that the respondent/ complainant alleges that the petitioner had borrowed a sum of Rs. 2 lakhs from the respondent on 25.01.2020. Thereafter, petitioner said to have issued post dated cheque dated 25.02.2020 for discharge of the liability. It is seen that the issuance of impugned cheque had taken place on 25.01.2020 and therefore, this Court does not understand what is the relevancy for seeking bank statement of the respondent for the period from 01.01.2019 to 01.10.2019. There was no answer to the question raised by the Court in the petition or at the time of submission of the arguments. Therefore, this Court finds that the learned trial Judge had rightly dismissed the petition stating that the petitioner has not stated the relevancy of the bank statement for the period from 01.01.2019 to 01.10.2019. Not only that, petitioner had not raised any such defence in the reply notice and even at the time of questioning under Section 251 and 313(1)(b) of Cr.P.C. Thus, this Court finds that the petition was rightly dismissed and there is no valid reason for interfering with the order of the learned trial Judge in C.M.P.No.95 and 96 of 2023.



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4. Accordingly, this Criminal Original Petition is dismissed.

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To

Judicial Magistrate FTC No.1, Erode



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G.CHANDRASEKHARAN,J.

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