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Crl.O.P.No.7443 of 2023

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

**DATED: 06.04.2023**

**CORAM:**

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

**Crl.O.P.No.7443 of 2023**

**and**

**Crl.M.P.Nos.4774 & 4776 of 2023**

S Jay Engineers Production  
Rep by its Proprietor,  
P.N.Ramesh  
No.14, Parthasarathy Avenue,  
Mannimedu, Thadagam Post,  
Via – Periyapanicherry,  
Chennai – 600 128.

...

Petitioner

**Vs.**

Thamizharasu Vijayan

...

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.12/2018, pending on the file of the Judicial Magistrate No.II, at F.T.C., Poonamallee and quash the same.

For Petitioner : Mr.R.Srinivasalu

**ORDER**

This Criminal Original Petition is filed to call for the records relating to the proceedings in STC No.12/2018, pending on the file of the Judicial Magistrate No.II, at F.T.C., Poonamallee and quash the same.



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2.The learned counsel for the petitioner submitted that the complaint allegations made against the petitioner are totally false. It is claimed in the complaint that on the basis of the oral lease agreement, respondent said to have paid Rs.11,00,000/- to petitioner and then, in order to repay the amount issued a cheque. It is totally false. In fact, respondent caused loss to petitioner and therefore, petitioner gave a notice to respondent in 2017. He also gave complaint to the police against the respondent on 11.04.2017. Those complaints are pending. He also filed a suit in O.S.No.82 of 2018 for recovery of money and for other reliefs against the respondent. In the said circumstances, this petition is filed for quashing.

3.Heard the learned counsel for the petitioner and perused the records.

4.The complaint allegations show that complainant/respondent and accused/petitioner entered into an oral agreement, whereby, petitioner agreed to lease his CNC machinery unit for a deposit of Rs.11,00,000/- and on a monthly rental of Rs.2,50,000/- . Petitioner agreed to repay the deposit amount whenever the parties agree to end the agreement. Respondent was looking after the unit as his own unit and in December 2015, he informed



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petitioner that he would like to end his agreement with petitioner. That was accepted. In a meeting held, after verifying and scrutinizing the accounts, petitioner agreed to pay Rs.11,00,000/- to respondent in two installments, i.e., Rs.5,00,000/- in March 2017 and Rs.6,00,000/- in April 2017. However, petitioner did not make the payment and evaded to make the payment. Then he issued cheques bearing Nos.707674 & 707675, dated 28.04.2017 for Rs.5,00,000/- & Rs.6,00,000/- respectively, drawn on ICICI Bank, Poonamallee Branch. When these cheques were presented for collection, they were returned vide return memo dated 02.05.2017 for the reason “stop payment by the drawer”. Statutory notice was given to petitioner and the same was received by petitioner on 28.05.2017, but he did not make the payment. Therefore the complaint was given.

5. Reading of the complaint allegations coupled with the documents produced along with the complaint clearly make out the commission of an offence under Section 138 N.I. Act. The claims made by the learned counsel for the petitioner are that, respondent caused loss to the business, he issued notice to the respondent and also gave police complaint. This Court sitting in 482 Cr.P.C. cannot decide this disputed facts and the disputed facts have to be



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decided only during the trial. Therefore, this Court finds no merit in the petition for quashing the proceedings against the petitioner.

6. Accordingly, this Criminal Original Petition is dismissed. The Trial Court is directed to dispose of the case without being influenced by any of the observations made by this Court in this order. Consequently, connected miscellaneous petitions are closed.

**06.04.2023**

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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

To:

1. The Judicial Magistrate No.II,  
at F.T.C., Poonamallee.

2. The Public Prosecutor,  
High Court of Madras.



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**G.CHANDRASEKHARAN, J.**  
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