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Crl.O.P.No.9291 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.9291 of 2023
and
Crl.M.P.Nos.6012 and 6010 of 2023

Mandira Bansal

...Petitioner

Vs.

Sadhana Banthiya

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records culminated in S.T.C.No.2524 of 2022, pending on the file of Metropolitan Magistrate Court/Fast Track Court-III, Saidapet, Chennai and quash the same.

For Petitioner : Mr.P.Sathyanathan

ORDER

This Criminal Original Petition is filed to call for the records culminated in S.T.C.No.2524 of 2022, pending on the file of Metropolitan Magistrate Court/Fast Track Court-III, Saidapet, Chennai and quash the same.



Crl.O.P.No.9291 of 2023

2. It is the submission of the learned counsel for the petitioner that, respondent filed a complaint under Section 138 of Negotiable Instruments Act. This complaint is challenged mainly on the ground that,

(i) Petitioner has not issued the cheque No.805711.

(ii) This cheque was not presented for collection to the petitioner's Bank and in support of his submission, he produced a letter given by the Bank Manager of Indian Overseas Bank, T.Nagar

3. He further submitted that, at the time of the borrowal of money from the respondent, petitioner gave 10 cheques as security. He further submitted that, the cheque bearing No.805711 was given by the petitioner to the respondent's Power of Attorney agent namely Tarun Jain and that cheque is misused for filing this case.

4. Considered the submissions and perused the records.

5. As per the complaint allegation, petitioner said to have borrowed a sum of Rs.10,00,000/- from the respondent on 22.05.2019. Petitioner said to have admitted that, he would pay the amount with interest at 24% per annum



Crl.O.P.No.9291 of 2023

within a period of 10 months at the rate of Rs.1,20,000/- per month. Petitioner is liable to pay Rs.2,40,000/- towards the due amount and to discharge his due, he issued cheque bearing No.805711, drawn at Indian Overseas Bank, Sriram Nagar, Chennai. The cheque was dated 18.11.2021 for a sum of Rs.3,80,000/- being the principal and interest.

6. The complaint allegation shows that, cheque bearing No.805711 was given for payment of due of Rs.2,40,000 and interest. Petitioner admitted the borrowal money from the respondent. Petitioner contends that, he has not issued cheque to the respondent and the cheque issued to the respondent's Power of Attorney Agent was misused by the respondent. It is a disputed fact and that has to be decided only in the trial. Petitioner's claim that his Bank Manager has given a letter stating that, cheque bearing No.805711 was not presented for collection in petitioner's bank is also a disputed fact, which requires to be proved only during the course of trial.

7. Under such circumstances, this Court finds that, there is no merit in seeking quashment of proceedings in S.T.C.No.2524 of 2022, pending on the file of Metropolitan Magistrate Court/Fast Track Court-III, Saidapet, Chennai.



Crl.O.P.No.9291 of 2023

Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

27.04.2023

Internet :Yes

Index :Yes/No

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To:

The Metropolitan Magistrate Court/Fast Track Court-III,
Saidapet,
Chennai.



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Crl.O.P.No.9291 of 2023

G.CHANDRASEKHARAN, J.
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Crl.O.P.No.9291 of 2023

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