



Crl.O.P.No.13429 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.13429 of 2023 and
Crl.M.P.No.8090 of 2023

K.Desigan

...Petitioner

Vs.

J.Yesumani

...Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records pertaining to the C.C.No.5027 of 2013 pending on the file of the learned Metropolitan Magistrate FTC-II, Egmore at Allikulam, Chennai – 3 for the offence under Section 138 of the NI Act and to quash the same.

For Petitioner : Mr.M.Prabhakar

For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to the C.C.No.5027 of 2013 pending on the file of the learned Metropolitan Magistrate FTC-II, Egmore at Allikulam, Chennai – 3 for the



offence under Section 138 of the NI Act and to quash the same.

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2.The learned counsel for the petitioner submitted that respondent filed a complaint under Section 138 of Negotiable Instruments Act, on the basis of dishonour of cheque. It is averred in the complaint that petitioner's wife Selvarani borrowed a sum of Rs.2,00,000/- and for the discharge of the said loan, petitioner said to have issued a cheque for Rs.2,50,000/- on behalf of his wife on 14.03.2013. The statutory notice was addressed to both Selvarani and petitioner. This, according to the petitioner is illegal and therefore, he filed this petition for quashing.

3.Considered the submission and perused the records.

4.It is seen from the records that the allegations made in the complaint show that petitioner's wife Selvarani borrowed a sum of Rs.2,00,000/- and for discharging the said loan, petitioner issued a cheque for Rs.2,50,000/- on 14.03.2013. When the cheque was presented for collection, it was returned as “Funds insufficient” . The statutory notice



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was given on 18.06.2013, calling upon the petitioner to pay the amount.

However, the petitioner has not paid the amount. Thus, the complaint was filed. The statutory notice dated 18.06.2013, shows that the notice was addressed to both the petitioner and his wife Selvarani. It is alleged that for the discharge of the amount borrowed, petitioner issued a cheque and therefore petitioner as well as his wife Selvarani were asked to pay a sum of Rs.2,50,000/-. This Court, *prima-facie*, finds there is no illegality in asking the petitioner to pay sum of Rs.2,00,000/-. Therefore, this Court finds there is no merits in the prayer seeking quashing the case in C.C.No.5027 of 2013 pending on the file of the learned Metropolitan Magistrate FTC-II, Egmore at Allikulam, Chennai – 3. Petitioner can raise this issue during the course of trial.

5. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

19.06.2023

Index: Yes/No

Speaking/Non speaking order

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G.CHANDRASEKHARAN, J.

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To
The Metropolitan Magistrate FTC-II,
Egmore at Allikulam, Chennai – 3

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