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Crl.OP.No.14057 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.14057 of 2023

and

Crl.MP.No.8683 of 2023

Umar Shariff

... Petitioner

Vs.

S.Tamilmaran

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in STC.No.362 of 2022 on the file of the Judicial Magistrate Court, Thiruvottriyur and quash the same.

For Petitioner : Mr.P.Manikannan

ORDER

The petition to quash the private complaint under Section 138 of N.I.Act alleging that there is no premitry of contract between the complainant and the petitioner. Further, the case of the petitioner is that



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in the blank signed paper and cheque some statements were prepared by the complainant himself in the complaint is filed , particularly the learned counsel appearing for the petitioner would submit that though the complainant claims that he know the accused for more than 20 years he had sent a statutory notice to the wrong address which he resided which he vacated eight years ago and complaint filed without proper service of notice.

2. The perusal of the record indicates that statutory notice sent to the last known address of the accused returned unclaimed by the accused. Postal endorsement indicates that door locked. The Court notice also returned with postal endorsement no such addressee. However, it is noted that the petitioner admits the signatures found in the cheque as well as in the receipt given by him to one Ponnarasu. In the complaint, it is narrated that how cheque came to be issued in favour of the complainant. These facts are fundamental in nature which has been narrated in the complaint itself.

3. Anything contrary to this facts need to be proved by the accused by let in evidence or disproving the case of the complainant. On the face



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of records available, this Court does not find that the cheque given in blank been misused by the complainant as alleged in the quash petition.

The disputed facts which need to be tested in the trial cannot be summarily tested on perusal of documents. Hence, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

4. The trial Court without prejudice being some observations in this order which is purely restricted to the quash petition shall decide the case on merits based on the evidence.

Vv

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To

1. The Judicial Magistrate Court,
Thiruvottriyur.

2. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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