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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.07.2023

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THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.15727 of 2023

S.Tamilmani

.. Petitioner

Vs.

Mr.V.Ashok

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order passed in CMP.No.822 of 2023 in S.T.C.No.71 of 2022 dated 16.05.2023 on the file of the Judicial Magistrate Fast Track Court, Thiruthuraipoondi and consequently direct the respondent / complainant to produce the petitioner documents.

For Petitioner : Mr.K.M.Subramaniam

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed against the order passed by the learned Judicial Magistrate, Fast Track Court, Thiruthuraipoondi. in CMP No.822 of 2023 in STC No.71 of 2022 dated 16.05.2023, dismissing the application filed by the petitioner under Section 91 of Cr.PC for a direction to the complainant to furnish certain documents.

2. The respondent filed a complaint against the petitioner for offence under Section 138 of the Negotiable Instruments Act. The case is now at the stage of examination of PW1. At that point of time, the petitioner filed an application under Section 91 of Cr.PC for a direction to the respondent / complainant to furnish certain documents.

3. The Court below on considering the facts and circumstances of the case and also the stage of the Trial, came to a conclusion that whatever documents are sought for by the petitioner



can be put to the respondent even at the time of cross examination and the necessary answers can be elicited from the respondent.

Therefore, at this stage, the Court below found that the application filed by the petitioner cannot be entertained. Aggrieved by the same, the present Criminal Original petition has been filed before this Court.

4. Heard the learned counsel for the petitioner.

5. This Court has carefully considered the submissions made by the learned counsel for the petitioner and the materials available on record.

6. The application was filed by the petitioner mainly on the ground that the respondent is a Government servant working in TASMACH and that he had lent money to the petitioner and the petitioner had also repaid back the entire amount with interest. However, the respondent misused the blank cheques and the blank



stamp papers that were signed by the petitioner as security and filed the complaint. The petitioner wants to establish before the Court that the respondent is a Government servant and that he does not have the financial wherewithal to lend the money as stated in the cheque and hence, the documents sought for by the petitioner is required for the purpose of establishing the defence of the petitioner.

7. In the considered view of this Court, the case is now at the stage of cross examination of PW1. The petitioner has to first cross examine PW1 and put all the necessary questions regarding his employment and about his financial wherewithal. It will also be open to the petitioner to ask about the relevant documents based on which the status and the income of the respondent can be ascertained. Depending upon the answers given by the respondent, the further course of action can be taken by the petitioner. Therefore as rightly held by the Court below, this is not the stage for directing the respondent to furnish the documents and this Court



does not find any illegality or infirmity in the order passed by the Court below.

8. In the result, this criminal original petition is dismissed.

14.07.2023

Index :Yes/No
Internet:Yes/No
Speaking/Non speaking order
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To

1. The Judicial Magistrate Fast Track Court,
Thiruthuraipoondi.
2. The Public Prosecutor,
High Court, Madras.



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N. ANAND VENKATESH,J

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