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Crl.O.P.No.15907 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2023

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

**Crl.O.P.No.15907 of 2023**

V.Senthilkumar  
S/o.V.Vaidyanathan

.. Petitioner

Vs.

V.Anandan  
S/o.Vadivel Thevar

.. Respondent

**Prayer:** Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order passed in CMP.No.705 of 2022 in C.C.No.1 of 2021 dated 27.01.2023 on the file of the Judicial Magistrate Fast Track Court, (Magisterial Level) Thiruthuraipoondi, and consequently direct the respondent / complainant to produce the petitioner documents under Section 91 of Cr.P.C.

For Petitioner : Mr.K.M.Subramaniam



CrI.O.P.No.15907 of 2023

## **ORDER**

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This Criminal Original Petition has been filed against the order passed by the learned Judicial Magistrate Fast Track Court (Magisterial level), Thiruthuraipoondi. in CMP No.705 of 2022 in C.C.NO.1 of 2021 dated 27.01.2023, 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 trial in this case had not commenced. 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 that stage, the Court below found that the application filed by the petitioner cannot be



CrI.O.P.No.15907 of 2023

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 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 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 trial in this case has



Crl.O.P.No.15907 of 2023

not yet commenced. 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.

**27.07.2023**

Index :Yes/No  
Internet:Yes/No  
Speaking/Non speaking order  
mp/mkn

To



Crl.O.P.No.15907 of 2023

1. The Judicial Magistrate Fast Track Court, (Magisterial Level),  
Thiruthuraipoondi.
2. The Public Prosecutor,  
High Court, Madras.

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CrI.O.P.No.15907 of 2023

**N. ANAND VENKATESH,J.**

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CrI.O.P.No.15907 of 2023

27.07.2023