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Crl.O.P.No.23370 of 2023



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Dated : 06.11.2023

CORAM :

**THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN**

**Crl.O.P.No.23370 of 2023**  
**and**  
**Crl. M.P. Nos.16358 & 16359 of 2023**

S.Anbzhagan

... Petitioner

-VS-

K.S.Manogharan

...Respondent

**PRAYER :** Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records of the Criminal Case in STC No.515 of 2023 on the file of the Judicial Magistrate No.1, Bhavani against the petitioner and quash the same as illegal.

For Petitioner

: Mr.M.Ramalingam

**ORDER**

The petitioner herein is the drawer of cheque for a sum of Rs.10,00,000/- drawn in favour of the respondent. Since the cheque on presentation returned for insufficient funds, after causing statutory notice, the complaint been lodged before the learned Judicial Magistrate No.I, Bhavani and the same is taken on file as STC No.515 of 2023



2. The learned counsel for the petitioner submits that the petitioner is a landlord and the complainant is a tenant under him. For eviction, he has already initiated proceedings before the learned District Munisif, Mettur and the same is pending. The subject cheque was lost during transit and in this connection he has given a public notice in the news paper and also given a complaint to the police. Therefore, it is a stolen cheque and not legally enforceable been misused by the complainant and the same has to be quashed.

3. The material placed before this Court indicates that the cheque is dated 28.04.2023. The statutory notice sent to the petitioner dated 12.05.2023. Whereas, the paper publication indicating the loss of the cheque is dated 24.05.2023, online Police complaint about the loss of the cheque is dated 31.05.2022, all these documents reporting loss of cheque, which were all subsequent to the receipt of the legal notice from the complainant. Therefore, the genuineness of his complaint has to be proved only in the course of trial. Though there is strong suspicion that blank signed cheque of the petitioner might have been misused by the complainant, at this stage without examining the witnesses and testing the documents, the Court cannot jump into the conclusion.



4. Learned counsel for the petitioner states that the accused is 60 years old and dialysis patient and to harass him, the complainant has presented the cheque in Karur Vysya Bank, Bhavani and has lodged the complaint at Bhavani and forcing the petitioner to attend the Court from Salem to Bhavani. Hence, seeks for dispense with the personal appearance of the petitioner on all the hearing dates except dates on which, his physical appearance is required.

5. This Court finds some force in this submission, in case, if the trial Court requires the physical appearance of the petitioner/accused summons may be issued intimating the date of hearing and on receipt of the summons, the petitioner should necessarily appear before the trial Court physically and participate in the trial. With this observation, this Criminal Original Petition is Disposed of. Consequently, connected Miscellaneous Petitions are closed.

**06.11.2023**

Internet : Yes/No

Index : Yes/No

rkp

To

1. The Judicial Magistrate No.I,  
Bhavani
2. The Public Prosecutor,  
Madras High Court, Madras.



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**Dr.G.JAYACHANDRAN, J.**

rkp

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