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

**DATED : 21.08.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH**

**Crl.O.P No.29681 of 2022**  
**and Crl.MP.No.18184 of 2022**

Manimurugan  
Proprietor, M/s.TNSS Trailer Service  
No.4/124-B, Abi Building,  
Near Pannagar, Salem Road  
Acharappan Street  
Namakkal-637 001.

.. Petitioner

.VS.

M/s.Carrying Corporation of India Pvt.Ltd.,  
Rep. Herein by its Partner, Suresh Attari  
Old No.53, New No.105  
Thambu Chetty Street  
Chennai 600 001.

.. Respondent/Complainant

**PRAYER:** Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining in Crl.MP.No.15519 of 2022 in CC.No.1278 of 2020 dated 13.10.2022, on the file of the learned II Metropolitan Magistrate Fast Track Court, Egmore, Allikulam, Chennai and set aside the same.

For Petitioner : Mr.R.C.Manoharan

For Respondent : Mr.Richardson Wilson

**ORDER**

This criminal original petition has been filed challenging the order passed by the Court below dismissing the application filed u/s.91 Cr.PC. in Crl.MP.No.15519 of 2022, dated 13.10.2022, wherein the petitioner had sought for issuing summons to



the Complainant's Bank for furnishing the details of the statement of accounts on certain dates.

2.The respondent has filed a complaint against the petitioner for offence u/s.138 of the Negotiable Instruments Act, 1881. The petitioner has taken a stand that the entire amount has been repaid back to the respondent and excess amount remains with the respondent. In order to substantiate the same, the petitioner wanted to summon the statement of accounts of the respondent from the respondent's Bank. The Court below by order dated 13.10.2022, dismissed this application on the ground that if the petitioner had repaid back the amount, the petitioner can always establish the same by producing the necessary materials before the Court and by marking the statement of accounts of the petitioner. This order has been put to challenge in this criminal original petition.

3.Heard Mr.R.C.Manoharan, learned counsel for the petitioner and Mr.Richardson Wilson, learned counsel for the respondent.

4.In the considered view of this Court, the petitioner wants to establish a defense that the entire amount has been repaid back to the respondent. For this purpose, the petitioner has also put certain questions to the respondent, when he was cross examined. To establish that the amount has been transferred to the account of the respondent, the petitioner wanted to summon the statement of accounts from the Complainant's Bank. If the petitioner had repaid back the



amount, it is always left open to the petitioner to establish the same through defense evidence. The petitioner is admittedly maintaining the bank account with HDFC Bank. If the petitioner repaid back the amount through Bank transaction, it will be reflected in the bank account also. Therefore, for this purpose it is not necessary to call the Complainant's Bank to furnish the details. This fact has been properly appreciated by the Court below and this Court does not find any ground to interfere with the same.

5.It is made clear that the petitioner can always prove the repayment of the amount by producing the necessary documents, at the time of adducing evidence on the side of defense. Therefore, the dismissal of the application before the Court below does not in any way affect the right of the petitioner in establishing his defense.

6.This criminal original petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

**21.08.2023**

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Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
kp

To  
II Metropolitan Magistrate Fast Track Court,  
Egmore, Allikulam, Chennai.



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**N. ANAND VENKATESH,, J.**  
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**Crl.O.P No.29681 of 2022**

**21.08.2023**

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