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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-11-2023

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THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

CrI. OP No.25854 of 2023

And

CrI.MP Nos.17939 and 17940 of 2023

1.M/s.Sri Madhurambal Agencies,
Represented by its Authorised Signatory
Mr.K.R.Gandhi,
No.76, Ground Floor,
Kamarajapuram 4th Street,
Nungambakkam,
Chennai-600 034.

2.K.R.Gandhi ... Petitioners/Accused Nos.1 and 2

Vs.

M/s.Indusind Bank Limited,
Represented by its Authorised Signatory
and Manager-Legal, Mrs.B.Nishanthini,
No.25, Steeple Reach,
A Block, 3rd Floor,
Cathedral Road,
Gopalapuram,
Chennai-600 086.

... Respondent/Complainant



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Prayer: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, calling for the records in STC No.5670 of 2023 now pending on the file of FTC-II, Metropolitan Magistrate Court, Allikulam, Chennai and to quash the same as illegal and unlawful.

For Petitioners : Mr.T.S.Rajamohan

ORDER

The present Criminal Original Petition has been filed by the petitioners to quash the complaint issued under Section 138 of the Negotiable Instruments Act, regarding the cheque issued for a sum of Rs.3,84,888/- dated 15.04.2023.

2. The learned counsel appearing on behalf of the petitioners submitted that there was loan transaction between the complainant and the petitioners and arbitration proceedings were initiated on crystallisation of the due. An Award was passed on 10.07.2023 holding that the complainant is entitled for a decree of Rs.15,38,198/- along with interest at the rate of



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18% per annum.

3. The contention of the petitioners herein is that the cheque amount while crystallised into consolidated due, liable to pay to the complainant as per the Arbitration Award passed on 10.07.2023, criminal proceedings under Section 138 of the Negotiable Instruments Act, for the cheque issued earlier will not sustain.

4. On perusing the pleading and the documents, this Court finds that the cheque, which is the subject matter of the complaint dated 15.04.2023.

5. Admittedly, the petitioners and the complainant had money transaction and the present cheque, which is issued, is drawn by the petitioners herein. Even if it is contended that the cheque amount had been consolidated in the Award passed by the Arbitrator, it is not an answer for the liability to pay and the enforceability of the debt, which is crystallised into in the form of cheque issued to the complainant.



WEB COPY

Crl.OP No.25854 of 2



6. Therefore, the present Criminal Original Petition is dismissed holding that the Award passed subsequently cannot take away the right of the complainant to sustain criminal prosecution for issuance of cheque without adequate fund. In fact, the Award of the Arbitrator only re-enforces the fact that the accused is liable to pay the complainant.

7. With the above observations, the present Criminal Original Petition stands dismissed. Consequently, the connected Criminal Miscellaneous Petitions are also dismissed.

10-11-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

1.The Fast Track Court No.II,
Metropolitan Magistrate Court,
Allikulam,
Chennai.

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



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Crl.OP No.25854 of 2



DR.G.JAYACHANDRAN, J.

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Crl. OP 25854 of 2023

10-11-2023