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Crl.O.P.No.27294 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.27294 of 2023

and

Crl.M.P.No.s18950 & 18952 of 2023

Nisha Ramesh

... Petitioner

Vs.

M/s.Fincare Small Finance Bank Limited
(Formerly known as Disha Microfin Pvt. Ltd and
Subsequently known as Disha Micorfin Ltd)
Having its Office at
D.No.435, Ground Floor,
Bharathi Street, Pondicherry – 605 001,
Rep. By its Authorized Signatory – Power of Attorney,
C.Nethaji

...Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the records pertaining to the S.T.C.No.1640/2023 on the file of the learned Judicial Magistrate No.II, Puducherry and quash the same.

For Petitioner : Mr. N.Palanisamy



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ORDER

Petitioner is an accused in a private complaint initiated by a non-banking finance company for the offence under Section 138 of Negotiable Instruments Act.

2. The contention of the learned counsel for the petitioner is that, the subject cheque was given as security for the loan availed and in breach of the loan agreement, parties has to resort to arbitration and cannot initiate action under Section 482 of Cr.P.C.

3. The grounds raised by the learned counsel for the petitioner cannot be taken into consideration while considering the petition to quash the complaint. The proceedings under Section 138 of Negotiable Instruments Act is an independent fact, whether the cheque was issued as collateral security or not to be decided in the trial Court and not summarily under Section 482 of Cr.P.C.

4. In the light of the above, this Criminal Original Petition is



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dismissed. Consequently, connected miscellaneous petitions are closed.

However, liberty is granted to the petitioner to agitate all points during the trial.

06.12.2023

Index : Yes/No

Neutral Citation : Yes/No

Sma

To

Judicial Magistrate No.II, Puducherry

Dr.G.JAYACHANDRAN,J.



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