



Crl.OP.No. 8072 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.8072 of 2024

and

Crl.MP.No.5910 of 2024

Subramani @ Babu

... Petitioner

Vs.

Ko.Sampath

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, prayed to set aside the dismissal order passed by the Fast Track Court Magistrate Level at Thiruvallur in Crl.MP.No.27 of 2024 dated 22.02.2024 pending before in STC.No.121 of 2023 and the Crl.MP to be allowed.

For Petitioner : Mr.V.T.Narendiran

For Respondent : S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

The petition is filed under Section 91 of Cr.P.C to produce the bank account of the complainant in a private complaint initiated under Section 138 of Negotiable Instruments Act.



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2. The trial Court after considering the prayer dismissed the petition saying that even according to the complainant, the money was given by cash and therefore the production of bank account will have no relevancy in this case.

3. However, the learned counsel for the petitioner who has challenged that order states that to know the wherewithal of the complainant to give Rs.9,00,000/-, the bank account is very much necessary.

4. This Court is unable to countenance such argument since by way of an application under Section 91 of Cr.P.C, roving enquiry cannot be made. The parties are to stick on to their own pleadings and has to prove their case. There is a complaint stating that the money was paid in cash and to discharge the debt, cheque was issued.

5. It is for the petitioner herein to disprove the allegation in the complaint that no money was received by him. The question of wherewithal has to be tested during the trial by cross examining the witnesses and adducing positive witness by the defence. Under the guise of Section 91 of Cr.P.C for production of document, roving enquiry cannot be permitted unless and until there is any pleading in connection with those documents which is now sought. When there is no pleading,



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there is no necessity to entertain the petition, the trial Court has rightly dismissed the petition.

6. Accordingly, this Criminal Original Petition is dismissed.

Consequently, the connected miscellaneous petition is closed.

Vv

03.04.2024

To

1. The Fast Track Court Magistrate Level,
Thiruvallur
2. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

Vv

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