IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.8710 of 2024

Shahul Hameed ... Petitioner

Vs.

B.Velumani ... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the records culminating in CMP.No.9779 of 2023 in STC.No.213 of 2023 on the file of the learned Judicial Magistrate, Fast Track Court No.I, Erode order dated 12.02.2024, set aside the same.

For Petitioner : Mr.B.Mohan

ORDER

The petitioner herein is an accused in a private complaint initiated under Section 138 of Negotiable Instruments Act.

2. During the course of examination of witnesses, he has filed a petition under Section 91 Cr.P.C., for production of income tax return for the period 2017 to 2023 of the complainant.

3. The trial Court, after considering the averments found in the complaint and the evidence of the complainant, has found that the production of income tax return as sought under Section 91 Cr.P.C., is unnecessary and the application is without any valid reason. Hence dismissed the application. Being aggrieved, the present petition is filed under Section 482 of Cr.P.C.,

4. Production of income tax return will either disclose that the transaction which is the subject matter of cheque been disclosed or not disclosed by the complainant. Either way that is not going to either enhance or diminish the case of the complainant. It will able to prove that the money been paid to the accused/the petitioner to discharge the debt, the subject cheque been issued to him.

5. From the impugned order of the trial Court, this Court finds that the complainant has marked Ex.P12 to Ex.P19, the bank statements to prove the transaction. Therefore, it is for the complainant to disprove the transaction as reflected in Ex.P12 to Ex.P19 and that cannot be any way establish by or through income tax return, if at all the complainant has not declared the income to the income tax authority or not disclose the transaction to the Income Tax Authority. It is for the income tax authority to take action, but that will no way help the accused from disproving the liability of paying the cheque amount if his borrowing proved otherwise. Hence, this Criminal Original Petition is dismissed.

08.04.2024

Index : Yes/No
Neutral Citation : Yes/No

rpl

To

The Judicial Magistrate, Fast Track Court No.I, Erode.

Dr.G.JAYACHANDRAN,J.

rpl

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