



Crl.O.P.No.9576 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.No.9576 of 2024

R.Palaniappan

... Petitioner /Accused

Vs.

D.Selvaraj

...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records vide proceedings in S.T.C.No.06 of 2023 pending on the file of the FTC-IV at George Town in Chennai and quash the same.

For petitioner

: M/s.T.Annaamalai

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in S.T.C.No.6 of 2023 on the file of the learned Fast Track Court-IV, George Town, Chennai, for the offence punishable under Section 138 of Negotiable Instruments Act.



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2. The case of the prosecution is that the petitioner herein borrowed a sum of Rs.5,00,000/- as a loan by way of cash from the respondent's client by assuring that he would repay the same within a period of three months. However, the cheque which was issued by the petitioner bearing No.000058 represented on 25.08.2021 was returned as account closed on 26.08.2021. Since the petitioner had failed to return the borrowed money as promised, the respondent herein issued a statutory notice dated 27.08.2021 to the petitioner and filed a complaint in S.T.C.No.06 of 2023 on the file of the Fast Track Court-IV, George Town, Chennai for the alleged offence under section 138 of Negotiable Instruments Act.

3. The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner and there is no specific allegation as against the petitioner.

4. Since no adverse order is being passed against the respondent, notice to the respondent is dispensed with.



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5. The petitioner has come before this Court even at the very inception to quash the case, without showing the ingredients of the offence are not made out. It is a case of cheque dishonour, which on materials has been taken cognizance of by the Court below. The trial court has rightly taken the case on file appreciating the materials placed before it and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*** .

6. For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.06 of 2023 on the file of the learned Fast Track Court-IV, George Town, Chennai. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.



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7. The learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

8. Registry is directed to return the original documents to the petitioner.

22.04.2024

Index : Yes/No

Internet : Yes/No

NHS

To

1. The Fast Track Court-IV at George Town,
Chennai

2. The Additional Public Prosecutor,
Madras High Court.



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M.DHANDAPANI. J

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