



WEB COPY



Crl.R.C.No.832 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.832 of 2024
and Crl.M.P.No.7494 of 2024**

G.Palani

... Petitioner

Vs.

S.Dhanasekar

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of the code of Criminal Procedure, to call for the records in Crl.M.P.No.7775 of 2024 in C.C.No.5279 of 2020 and set aside the order dated 08.04.2024 passed in Crl.M.P.No.7775 of 2024 in C.C.No.5279 of 2020 on the file of XXV Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.V.Kasiviswanathan

For Respondent : Dispensed with

O R D E R

The Criminal Revision Case is filed against the order dated 08.04.2024 passed in Crl.M.P.No.7775 of 2024 in C.C.No.5279 of 2020 by



Crl.R.C.No.832 of 2024

the learned XXV Metropolitan Magistrate, Egmore, Chennai.

WEB COPY

2. The facts of the case are that the petitioner has borrowed a sum of Rs.10,00,000/- from the respondent at the rate of 24% interest per annum, by executing a promissory letter, however, he did not repay the borrowed amount and the interest. When the respondent asked the money, the petitioner has issued a cheque for a sum of Rs.12,40,000/- as principal and interest and when it was presented before the Bank, it was returned with endorsement "account closed". Hence, the respondent has sent a legal notice, however, the petitioner sent an untenable reply. Therefore, the respondent has made a complaint under Section 138 of Negotiable Instrument Act against the petitioner and it was taken on file in C.C.No.5279 of 2020, in which, the petitioner has filed a petition in Crl.M.P.No.7775 of 2024 for examining two witnesses, namely, Ramachandran and Parthiban, who are said to be the witnesses to the promissory note which was alleged to have been executed between the petitioner and the respondent and it was dismissed. Challenging the same, the present petition has been filed.



CrI.R.C.No.832 of 2024

WEB COPY

3. The learned counsel appearing for the petitioner submits that the petitioner has repaid the amount to the respondent and he did not execute any promissory note in favour of the respondent/complainant. However, the respondent/complainant marked the promissory note as evidence and one Ramachandran and Parthiban were alleged to be the witnesses to the promissory note. Therefore, the petition has been filed by the petitioner to examine the said two witnesses, however, the trial Court has dismissed the petition overlooking the real fact. Hence, he prays for appropriate orders.

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

5. The issue raised in the present petition is as to whether a promissory note was executed between the petitioner and the respondent, however, it has to be decided only during the time of trial. Though the



Crl.R.C.No.832 of 2024

WEB COPY

petitioner claims that he has not executed any promissory note, but borrowed some amount from the respondent, whereas, the respondent claims that while borrowing loan, the promissory note was executed between them and Ramachandran and Parthiban, are the witnesses to the promissory note executed between them, and since he has not repaid the loan, he has filed a complaint under Section 138 of Negotiable Instrument Act. Feeling aggrieved, the petitioner has filed a petition to examine the said two witnesses and the same was dismissed on the ground that the case was relating to cheque and not to the alleged promissory note, and that since the cheque given by the petitioner to clear the debt borrowed from the respondent was dishonoured, the respondent has filed the complaint against the petitioner under Section 138 of Negotiable Instruments Act. Moreover, this Court is of the view that mere examination of witnesses may not help the Court to determine the matter and it is not a substantial evidence to decide the complaint given by the respondent. Hence, this Court is not inclined to interfere with the order dated 08.04.2024 passed in Cr.M.P.No.7775 of 2024 in C.C.No.5279 of 2020 by the learned XXV



Crl.R.C.No.832 of 2024

Metropolitan Magistrate, Egmore, Chennai.

WEB COPY

6. Accordingly, the Criminal Revision Case is dismissed.

Connected miscellaneous petition is closed.

05.06.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

ssb

To

The XXV Metropolitan Magistrate, Egmore, Chennai.



WEB COPY



Crl.R.C.No.832 of 2024

M.DHANDAPANI, J.

ssb

Crl.R.C.No.832 of 2024

05.06.2024