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Crl.O.P.No.11034 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.11034 of 2023

Rajasekaran

... Petitioner

Vs.

Housing Development Finance Corporation Ltd.,
by its Legal Officer Mr.Shareen Velloath

...Respondents

Prayer: Criminal Original Petition under Section 482 of the Criminal Procedure Code to call for the records in connection with complaint made in S.T.C.No.378 of 2022 on the file of the Fast Track Court No.1, (Magistrate Level), Coimbatore and quash the same.

For Petitioner : Mr.D.Veerasekaran

For Respondents : Mr.K.J.Parthsarathy
Ms.V.V.Uthra

ORDER

This petition has been filed to quash the proceeding pending in S.T.C.No.378 of 2022 on the file of the Fast Track Court No.1, (Magistrate Level), Coimbatore.



2. The respondent had filed a complaint under Section 138 of the Negotiable Instruments Act against the petitioner. According to the respondent, the cheque for a sum of Rs.2,32,000/- was issued by the petitioner towards repayment of the loan amount and when this cheque was deposited, it was dishonoured with an endorsement 'funds insufficient'. Thereafter, legal notice was sent and the private complaint was instituted.

3. Heard the submissions of the learned counsel for the petitioner and the learned counsel for the respondent.

4. The main ground that was urged by the learned counsel for the petitioner is that the entire amount was paid by the petitioner even before the complaint was lodged and therefore, continuation of criminal prosecution against the petitioner is an abuse of process of law.

5. The learned counsel for the respondent fairly submitted that the entire amount of Rs.2,32,000/- was paid by the petitioner in two instalments and such payment was completed by 30.06.2021. Thereafter, the private



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complaint was filed only on 12.07.2021.

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6. In the considered view of this Court, the petitioner had paid the entire cheque amount even before the filing of the complaint. Therefore, continuation of the criminal proceedings against the petitioner will only result in abuse of process of law which requires the interference of this Court.

7. The learned counsel for the respondent submitted that the petitioner has once again defaulted in the repayment of the loan amount. As on date, a sum of Rs.28,49,000/- is due and payable by the petitioner. If the petitioner does not repay back the loan amount, it is always left open to the respondent to proceed further in accordance with law against the petitioner. The petitioner will also take efforts to repay back the loan amount that was taken from the respondent.



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8. In the light of the above discussion, the proceedings in
S.T.C.No.378 of 2022 on the file of the Fast Track Court No.1, (Magistrate
Level), Coimbatore, is quashed. Accordingly, this Criminal Original Petition
is allowed.

23.01.2024

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Index : Yes/No

Speaking order:Yes/No

Neutral citation:Yes/No

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