



Crl.O.P.No.13401 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM

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

Crl.O.P.No.13401 of 2024

and

Crl.M.P.No.8122 of 2024

K.Preethi Munoth
Proprietrix of PK Finance

... Petitioner

Vs.

S.Dhamodharan

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records relating to the order dated 11.03.2023 made in Crl.M.P.No.3808 of 2023 on the file of the learned XIII Small Causes Judge, Chennai and set aside the same.

For Petitioner : Mr.S.T.Raja

ORDER

The petitioner herein is the complainant in a proceedings initiated under Section 138 of Negotiable Instruments Act. After completion of trial, the matter was posted for arguments, the complainant has thought fit to introduce a document purported to be executed by the accused in the nature of confirmation of balance. The petitioner had stated that this



CrI.O.P.No.13401 of 2024

document was traced recently and this will throw light regarding liability and admission of liability and same will strengthen the complaint.

2. It is contended that though it is not a new fact, it is a document which will be corroborating the factum of liability. However, the same was opposed by the accused on the ground that there was no whisper either in the complaint or notice about the document and nowhere suggested about the existence of the document. After completion of the trial and submissions of written argument, the present petition is filed to introduce a fabricated document which was created using the sign in the blank papers given as a security by the accused. The trial Court, after considering the merits of the case and on perusal of record, dismissed the petition to recall and to receive the document on the ground that disclosure of executing a letter confirming the balance not made in the complaint or in proof affidavit, suddenly the petitioner has come up with application for introducing the document after hearing the arguments on either side. The complaint is silent about the letter of confirmation of balance. Introduction of a new facts through document at the fag end of the trial will prejudice the accused.

3. The learned counsel appearing for the petitioner submitted



CrI.O.P.No.13401 of 2024

that the letter of confirmation of balance he should given for auditing purpose and letter dated 01.04.2015 duly signed by the accused was held up in the audit office. Therefore, in the complaint lodged on 01.03.2021. There was no reference about the letter for confirmation of balance.

4. The complaint is under Section 138 of N.I.Act for issuance of cheque without balance and the cheque purportedly have been given for discharge of debt. The cheque is dated 05.11.2020. The document which is now sought to be introduced is dated 01.04.2018. Since the complaint did not refer about this document, the accused had no opportunity to say or comment upon the document till filing of this petition to recall witness and admit the documents. However, this petition to recall the witness and admit the document been filed on completion of trial and after hearing the arguments on either side. Therefore, this Court finds no illegality or error in the order passed by the trial Court declining the petitioner's request to reopen the case and recall the witness. The document which never seen in the light of the day till the arguments of the case. If needs to be introduced, there must be a

Dr.G.JAYACHANDRAN,J.

rpl



Crl.O.P.No.13401 of 2024

valid reason why it was not been spoken or produced earlier. The petition filed before the trial Court to receive this document does not satisfy these two requirements . Hence, this Criminal Original Petition stands dismissed. Consequently, the connected Criminal Original Petition is also dismissed.

10.06.2024

Index : Yes/No

Neutral Citation : Yes/No

rpl

To

The XIII Small Causes Judge, Chennai

Crl.O.P.No.13401 of 2024