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CrI.O.P.No.16081 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.16081 of 2024
& CrI.M.P.Nos.9797 & 9796 of 2024

A.Josephraj. ... Petitioner/Accused

/versus/

C.Sundar. ...Respondent/ Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to C.C.No.108 of 2018 on the file of the District Munsif-cum-Judicial Magistrate, Neyveli and quash the same.

For Petitioner : Mr.J.Nagarajan

For Respondent : Mr.T.Gnana Banu

ORDER

The petitioner herein is the accused in a private complaint initiated under Section 138 of N.I and pending before the District Munsif-cum-Judicial Magistrate, Neyveli, in C.C.No.108 of 2018.



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2. The petitioner herein, making an allegation that the cheque was obtained forcibly from him in the police station, has filed the present petition to quash the complaint.

3. To substantiate his claim, the petitioner relies upon a representation given to the police and other officials on 12.05.2018 and his subsequent representation dated 05.04.2023 submitted that he has been repeatedly making representation to the Authorities to take action against the complainant and others who had forcibly taken cheque from him and filed the private complaint.

4. The Learned Counsel appearing for the complainant submits that, after six years of the instituting of a criminal complaint, the petitioner herein has come to this Court by creating certain documents as if, he had been complaining to the authorities since 2018 that the subject cheque was taken away from him by force. However, there is no evidence to show he has given any such complaint to the authorities.



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5. The Learned Government Advocate (CrI.side) appearing for the

state submits that Joseph Raj/the petitioner herein has given a representation on 05.04.2023 alleging that one C.Sundar has obtained a blank cheque from him with the help of police. But there is no material to substantiate the said claim, when the petitioner was summoned to appear and produce documents to proceed further, he did not turn up for the enquiry.

6. The Learned Counsel appearing for the petitioner, referring to

the response received to the RTI question would submit that he was able to produce documents about his earlier complaint since it has been answered by the authorities that all those complaints and documents would be preserved only for a period of three years and not thereafter.

7. It is pertinent to note that, after six years of instituting the suit,

the theory of obtaining the cheque by force through police has been projected by the petitioner herein. To substantiate the said plea, the petitioner is not able to produce any document except a copy of the letter purported to have been sent on 10.05.2018 without any proof or acknowledgement for posting and receipt.



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8. In such circumstances, the contention of the petitioner cannot be entertained for quash and it is open to petitioner to adduce positive evidence, if any to prove the said contention before the trial Court.

9. Accordingly, this Criminal Original Petition is dismissed as devoid of merits. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No.

Neutral Citation : Yes/No.

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To:-

1. The District Munsif-cum-Judicial Magistrate, Neyveli.



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Dr.G.JAYACHANDRAN, J.

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