



Crl.O.P.No.15216 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.08.2024

Pronounced on: 03.09.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.15216 of 2024
& Crl.M.P.Nos.9289 & 9291 of 2024

S.K.Balaji

.... Petitioner/Accused

/versus/

Sri Senthur Finance,
Rep. by its Managing Partner,
R.K.Selvarhajan, M/A56,
S/o.Karuppanna Gounder,
Having Office at No.53, Pravish Plaza,
Karur Bypass Road,
Moolapalaym, Erode – 638 002.

.... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records in S.T.C.No.59 of 2024 on the file of Judicial Magistrate (Fast Track Court No.II), Erode under Section 200 of Cr.P.C r/w 138 of Negotiable Instruments Act with regard to the petitioner and quash the complaint filed and pass orders.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.R.Prabakar



CrI.O.P.No.15216 of 2024

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ORDER

This Criminal Original Petition is filed by the petitioner in S.T.C.No.59 of 2024 on the file of Judicial Magistrate (Fast Track Court No.II), Erode for the offence under Section 138 of Negotiable Instruments Act.

2. The case of the prosecution is that the petitioner borrowed a sum of Rs.7,00,000/- lakhs from the complainant on 30.06.2021 and to discharge the debt, the petitioner issued subject cheque bearing No.608578 dated 07.08.2023 for a sum of Rs.7 lakhs. However, on presentation, the cheque returned with an endorsement 'Funds Insufficient'. Hence, the criminal complaint has been filed under Section 138 of N.I Act.

3. The Learned Counsel for the petitioner contends that there was no money transaction between the petitioner and the complaint. The cheque was issued to one A.Mohan and his wife Yeshotha for the loan availed from them. The said A.Mohan and his wife Yeshotha are the Former Partners of the complainant's firm. The cheque has been misused by the present Managing Partner of the Company. In the dispute between the partners, the petitioner



made as stakeholder.

4. The Learned Counsel for the respondent submits that for the loan availed by the petitioner, the subject cheque was issued on promise that it will be honoured. However, it was dishonoured, hence the criminal complaint. The allegation that in the dispute between the partners of the complainant's firm the cheque issued to one of the partner has been misused and same is denied.

5. The grounds raised by the petitioner to quash the criminal complaint are all factual in nature, it can be tested only in the trial. Hence, the petition to quash stands dismissed.

6. Accordingly, this Criminal Original Petition No.15216 of 2024 is dismissed. Consequently, connected Miscellaneous Petition No.9289 of 2024 is closed.

7. The Learned Counsel for the petitioner submits that the personal appearance of the petitioner may be dispensed. Considering the above



CrI.O.P.No.15216 of 2024

submission and the nature of the case, this Court directs the trial Court to consider any application filed for dispense the personal appearance of the petitioner to consider positively and proceed. With this observation, this ***Criminal Miscellaneous Petition No.9291 of 2024 is disposed of.***

03.09.2024

Index :Yes/No.
Internet :Yes/No.
Speaking Order/Non-Speaking Order.
bsm

To:-

1. The Judicial Magistrate (Fast Track Court No.II), Erode.



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Crl.O.P.No.15216 of 2024

DR.G.JAYACHANDRAN,J.

bsm

Pre-delivery order made in
Crl.O.P.No.15216 of 2024

03.09.2024