



Crl.O.P.No.14889 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 28.08.2024

Pronounced on: 03.09.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.14889 of 2024
& Crl.M.P.Nos.9121 & 9118 of 2024

K.Punithan.

.... Petitioner/Accused

/versus/

Sri Yoga Murugan 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.57 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



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ORDER

This Criminal Original Petition is filed by the petitioner in S.T.C.No.57 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 petitioner Punithan is the accused in S.T.C.No.57 of 2024 on the file of Judicial Magistrate, Fast Track Court No.II, Erode. A criminal complaint under Section 138 of N.I Act filed by the respondent/Sri Yoga Murugan Finance Company represented by its Managing Partner R.K.Selvarhajan, is sought to be quashed in this petition.

3. According to the petitioner, he has not borrowed money from the respondent finance company, in fact the subject cheque was issued to one Mohan and his wife Yeshodha as a security for the loan availed from them. In the Finance Company, the said Mohan and Yeshodha are partners and it appears that due to dispute between the partners, the cheque given to Mohan and Yeshodha been misused by the Partnership firm.



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4. According to the respondent, on 02.01.2017 the petitioner borrowed a sum of Rs.1,50,000/- from the respondent Finance Company and paid the interest till 30.05.2023. When the complainant demanded repayment of the money, cheque bearing No.157497, dated 07.08.2023 for a sum of Rs.3,00,000/- was issued. But on presentation of the said cheque, it was returned with an endorsement “Funds Insufficient”. Hence, the criminal prosecution.

5. This Court, after hearing the Learned Counsels on either side and perusing the record finds that the subject cheque has been given in favour of the complainant Firm. The pendency of alleged suit for dissolution of partnership will have no bearing or impediment for the respondent Finance Company to institute criminal prosecution for the cheque issued in his favour which has been dishonoured. Whether the cheque was issued for discharge of any enforceable liability to the firm or one of the partners of firm, can be tested in the course of trial. Therefore, the petition to quash on the said ground is not maintainable.



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6. Accordingly, this Criminal Original Petition No.14889 of 2024 is dismissed. Consequently, connected Criminal Miscellaneous Petition No.9118 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 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.9121 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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DR.G.JAYACHANDRAN,J.

bsm

Pre-delivery order made in
Crl.O.P.No.14889 of 2024

03.09.2024