



CrI.O.P.No.14898 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

CrI.O.P.No.14898 of 2024
& CrI.M.P.Nos.9133 & 9134 of 2024

A.Mohan.

.... 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,
Moolapalayam, 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.56 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

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2. The petitioner Mohan is the accused in S.T.C.No.56 of 2024 instituted by Managing Partner of Sri Senthur Finance for the offence under Section 138 of N.I Act. Stating that the subject cheque for Rs.5,00,000/- was not issued to the respondent towards any liability but the documents in the custody of the Firm in which the petitioner is also a partner been misused by the complainant.

3. According to the respondent, the petitioner borrowed a sum of Rs.50,000/- on 14.04.2021 and Rs.1,00,000/- on 29.11.2021 and also Rs.3,50,000/- on 15.04.2021. To discharge the said liability, the subject cheque for a sum of Rs.5,00,000/- dated 07.08.2023 was given by the petitioner. However, on presentation of cheque for collection, it got returned with endorsement "Funds Insufficient", hence the criminal complaint been filed, after causing statutory notice.

4. The contention of the petitioner that in the course of business, as a



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partner, he has invested the money in the firm and the subject cheque was

misused by the complainant is a matter of fact which has to be tested in the trial.

Having issued the cheque, only in the course of trial, the contention of the petitioner can be tested. Hence, the petition to quash the criminal complaint is not sustainable.

5. Accordingly, this Criminal Original Petition No.14898 of 2024 is dismissed. Consequently, connected Miscellaneous Petition No.9133 of 2024 is closed.

6. 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.9134 of 2024 is disposed of.***

03.09.2024

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



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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.14898 of 2024

03.09.2024