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Crl.O.P.No.19006 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.19006 of 2024

and

Crl.M.P.Nos.11226 & 11228 of 2024

V.Sankar

... Petitioner

Vs.

M/s.Dhanalakshmi Srinivasan Chit Funds (P) Ltd,
Represented by its Power Agent,
T.Saravanan,
Erode Branch,
Having office at
No.F5, Sakthi Duraisamy Complex,
1st Floor, EVK Sampath Salai,
2nd Street, Moolapattarai Road,
Erode – 638 003.
Respondent

...

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in STC No.169 of 2024 filed under Section 138 of the Negotiable Instruments Act on the file of the Fast Track Judicial Magistrate No.II, Erode District and quash the same.

For Petitioner : Mr.K.Venkateswaran

For Respondent : Mr.Y.Jyothish Chander

ORDER



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This Criminal Original Petition has been filed to call for the records in STC No.169 of 2024 filed under Section 138 of the Negotiable Instruments Act on the file of the Fast Track Judicial Magistrate Court No.II, Erode District and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned counsel for the respondent and perused the materials available on record.

3. Learned counsel for the petitioner submitted that the petitioner joined as chit subscriber in the respondent's chit group and subscribed for the chit amount to the tune of Rs.40,00,000/- for a period of 40 months. Due to default in payment by the petitioner, the respondent filed a complaint before the Deputy Registrar of Chits, Erode and an award has also been passed. As against the said award, the petitioner has filed an appeal before the appellate authority and the same is pending. Subsequently, the respondent has also filed execution proceedings for recovery of the award amount.

4. The learned counsel further submitted that the respondent had



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misused the cheque which was given by the petitioner as a security to the respondent, during the inception of chit transaction. The respondent had filed a complaint under Section 138 of the Negotiable Instruments Act in STC.No.169 of 2024 on the file of the Judicial Magistrate Court No.II, Fast Track Court, Erode.

5. Learned counsel for the respondent submitted that the petitioner has given cheque towards discharge of award amount and when he presented the same for collection, it was dishonoured. Hence, the respondent filed a complaint.

6. Admittedly, the respondent filed a complaint as against the petitioner under section 138 of the Negotiable Instruments Act before the learned Judicial Magistrate No.II Fast Track Court, Erode. The learned Magistrate has also taken the complaint on file in S.T.C.No.169 of 2024 and the same is pending. The petitioner admitted the issuance of cheque. It is the contention of the petitioner that he issued the cheque towards security in respect of chit transaction and not towards discharge of award



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amount. According to the respondent, the petitioner never issued a cheque earlier, if it is so, he would have presented the cheque for collection earlier. The issuance of cheque, date of cheque, and the details regarding as to whether the cheque has been given for discharging legally enforceable debt or not and other details can be decided only after a full fledged enquiry.

7. This Court finds that this is not a fit a case for quashing the complaint, by invoking 482 Cr.P.C. Hence, this Court is not inclined to allow the criminal original petition. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

8. The petitioner is at liberty to take all his defence before the concerned court where the S.T.C is pending. The learned Fast Track Judicial Magistrate No.II, Erode is directed to complete the enquiry and dispose of the complaint in S.T.C.No.169 of 2024 in accordance with law within a period of three months from the date of receipt of a copy of this order.

9. Personal appearance of the petitioner is dispensed with before



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the trial court, however, the petitioner has to appear before the trial court as and when his presence is required before the trial court.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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P.VELMURUGAN, J.

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