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CrI.O.P.No.16786 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

CrI.O.P.No.16786 of 2024

and

CrI.M.P.No.10126 of 2024

L.Jebaraj

... Petitioner

Vs.

M.Manickam

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in C.C.No.638 of 2021, on the file of the learned FTC-III Metropolitan Magistrate, Saidapet and quash the same.

For Petitioner : Mr.Karthikeyan Anbazhagan

ORDER

The petitioner herein is filed to quash the private complaint instituted under Section 138 of Negotiable Instruments Act for issuance of cheque for Rs.13,00,000/- dated 30.08.2018. The said complaint has been taken on file by the Fast Track Court-III Metropolitan Magistrate, Saidapet in C.C.No.638 of 2021.



2. The learned counsel appearing for the petitioner submits that the averment in the complaint is *per se* contrary to the facts and the allegations that pursuant to compromise entered between the parties in C.S.No.6 of 2006, on the file of the Hon'ble High Court, the liability of Rs.13,50,000/- arose between the accused and the complainant. However, referring the status of C.S.No.6 of 2006 and the parties to the proceedings, the petitioner submits that the accused is not a party in the said suit, only his brother was the defendant and therefore, *per se* on the face of the complaint, the allegations of enforceable liability fails.

3. This Court on perusing the document, finds that the subject cheque admittedly issued by the petitioner herein. The circumstances on which the cheque issued been narrated in the compliant. The said narration is false. The petitioner has to establish before the trial Court regarding the veracity of the narration. Petition under Section 482 of Cr.P.C., the Court cannot conduct mini trial on the material relied by the parties. Hence this Criminal Original Petition to quash the proceedings is dismissed with liberty to the petitioner to agitate the defence in the course of trial. Consequently, the connected Criminal Miscellaneous Petition is



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also dismissed.

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4. The learned counsel appearing for the petitioner submits that the petitioner is aged about 70 years. Hence he seeks leave of this Court to direct the trial Court to dispense with the personal appearance of the petitioner.

5. This Court is of the view that if the petitioner herein makes any application for dispense with his personal appearance, the trial Court shall consider it in accordance with law and appropriate order be passed.

18.07.2024

Index : Yes/No

Neutral Citation : Yes/No

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To

The FTC-III Metropolitan Magistrate, Saidapet, Chennai



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Dr.G.JAYACHANDRAN,J.

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