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Crl. O.P. No. 18864 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl. O.P. No. 18864 of 2024

and

Crl. M.P. No. 11131 of 2024

D.L.N. Suganya

... Petitioner

Vs.

Ravilal Patel
Proprietor,
M/s.Jalaram Timber Depot,
Represented by its Power Agent,
M.Sridharan
No.200/41, Nagappa Industrial Estate,
G.N.T.Road, Puzhal,
Chennai-600 066.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, to call for the records relating to S.T.C. No. 106 of 2020 pending on the file of the learned District Munsif cum Judicial Magistrate at Madhavaram and quash the proceedings therein.

For Petitioner : Mr. W.M. Abdul Azeez



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Crl. O.P. No. 18864 of 2024

ORDER

The Criminal complaint under 138 of Negotiable Instruments Act instituted in the year 2018 is now sought to be quashed on the ground that the subject cheque was not issued from the account maintained by the accused for the said purpose, the learned counsel for the petitioner rely upon the communication from his bank dated 18.11.2022.

2. This Court wonders why this defence is taken by the petitioner after delay of six years, even if he has a valid defence that has to be tested only before the trial Court and the High Court cannot entertain the petition for quash to examine the veracity of the letter sent by the ICICI Bank Manager on 18.11.2022 to quash the complaint.

3. The learned counsel for the petitioner rely upon the judgment of this Court wherein this Court in exercise of power under 482 of Cr.P.C had interfered and quash the complaint relying upon the letter given by ICICI Bank stating that the disputed cheque not belongs to the petitioner/accused and not from his account maintained at Alwar Thirunagar Branch, Chennai.



Crl. O.P. No. 18864 of 2024

WEB COPY

4. This Court is of the view that the inherent power of the Court under Section 482 of Cr.P.C has to be exercised sparingly. Question of facts should not be tested by the Court under the guise of exercising power under 482 of Cr.P.C. When the petitioner states that he has ample evidence to show the subject cheque was not issued from the account maintained by him for which, he wants to produce some evidence, it is appropriate to allow the petitioner herein to produce those materials before the trial Court for testing. Therefore, the criminal original petition for quash stands dismissed. Consequently, the connected miscellaneous petition is closed.

06.08.2024

Vv

To

1.The District Munsif cum Judicial Magistrate at Madhavaram.



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Dr.G.JAYACHANDRAN,J.

Vv

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