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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

**CRL.OP No.21186 of 2023
and Crl.MP.Nos.14560 and 14565 of 2023**

R.Imran Khan

Proprietor of M/s.R.K.Battery

Mno.179, AVM Complex

Arisipalayam Main Road

Paravathauram

Salem-9.

..Petitioner/ Accused

.Vs.

P.N.Amarnath Singh

..Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the complaint in STC No.1452 of 2023 on the file of the Judicial Magistrate No.III, Salem and quash the same.

For Petitioner : Mr.A.Sundara Vadhanan

For Respondent : Mr.S.Parthasarathy

ORDER

This petition has been filed challenging the proceedings initiated by the respondent against the petitioner under Section 138 of Negotiable

Instruments Act.



2.The main ground that has been urged by the learned counsel for the petitioner is that the subject cheques were lost as early as in the year 2020 itself and the complaint has been given in this regard before the Bengaluru Police Station. Therefore, these cheques have been misused in this case.

3. The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. The facts of this case and grounds raised the quash petition does not fall within the parameters laid down by the Apex Court in **Bhajan Lal case** reported in **(1992) Suppl (1) SCC 335**. It is left open to the petitioner to raise all the grounds before the Court and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

4.The learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.



5. Accordingly, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in S.T.C.No.1452 of 2023, as expeditiously as possible. Consequently, the connected miscellaneous petitions are also closed.

31.01.2024

1/2 Speaking Order/Non-Speaking Order

Index: Yes/No

Internet: Yes/No

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To

1. Judicial Magistrate No.III, Salem.

2. The Public Prosecutor,
High Court of Madras,
Madras.



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N.ANAND VENKATESH.J.,

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