



CrI.O.P.No.29549 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.29549 of 2024

and

CrI.M.P.No.16538 of 2024

N.Subramani

... Petitioner

Vs.

C.Palanisamy

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, 2023, to call for the records in S.T.C.No.178 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court No.1, Erode and to quash the same as abuse of process of law.

For Petitioner : Mr.Jeyaram

ORDER

This Criminal Original Petition is filed to quash the proceedings in S.T.C.No.178 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court No.1, Erode.



CrI.O.P.No.29549 of 2024

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2. Learned counsel for the petitioner submitted that the allegation made by the respondent/complainant in S.T.C.No.178 of 2022 is that the petitioner has borrowed a sum of Rs.7,00,000/- and Rs.5,00,000/- with exorbitant interest at 24% p.a., from the respondent for personal and business expenses. The petitioner has issued the post dated cheques. However, on presentation of the said cheques, the same were returned as 'payment stopped by the drawer'. Subsequently, the respondent issued a legal notice and filed the case in S.T.C.No.178 of 2022 before the Court below.

3. Learned counsel for the petitioner further submitted that, in the complaint the respondent himself admitted that the amount mentioned in the cheques were repaid with the interest at 24% p.a., which is exorbitant as per the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and also the rate of interest fixed by the Reserve Bank of India. As such, in lieu of the exorbitant interest charges, the debt itself had become legally unenforceable in the terms of the said Act and hence, the complaint under Section 138 of Negotiable Instruments Act would not get attracted.



CrI.O.P.No.29549 of 2024

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. It is seen from the records that the allegations made in the petition regarding interest, are a contractual transactions between the parties. The petitioner has also not produced any document that he has filed a complaint before the Central Crime Branch under the said Exorbitant Interest Act. Therefore, *prima facie*, the petitioner has no merit to file this Criminal by invoking Section 528 BNSS. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed. However, the petitioner is at liberty to take all his defences before the Court below during trial.

26.11.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
ms

To
The Judicial Magistrate,
Fast Track Court No.1,
Erode.



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Crl.O.P.No.29549 of 2024

P.VELMURUGAN, J

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