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CrI.O.P.No.26700 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.26700 of 2024
& CrI.M.P.Nos.14822 & 14821 of 2024

The Treasurer,
M/s.Andavar Educational Society,
Rep. by the Former Treasurer,
B.Prabhakar (M/49),
No.16/28, 1st Cross Street, Ratchur,
Karaikal – 609 602.

... Petitioner/Accused No.2
/versus/

Mrs.A.Uma Saraswathi, ... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C.,
pleased to call for the records in S.T.C.No.104 of 2024 on the file of the
Learned Judicial Magistrate No.1, Karaikal and quash the same as far as the
petitioner herein and pass orders.

For Petitioner : Mr.T.Padmanabhan

ORDER

The petitioner herein is the 2nd accused in S.T.C.No.104 of 2024 on
the file of Judicial Magistrate No.1, Karaikkal.



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2. The complaint under Section 138 of N.I filed against this petitioner and two others. Alleging that there is no averment in the complaint against this petitioner and the cheque lost by one of the member been misused by the complainant, the complaint is sought to be quashed.

3. The Learned Counsel appearing for the petitioner submits that there is no privity between the complainant and the Society. Admittedly, the money was borrowed by one Mrs.G.Chitra/3rd accused. When statutory notice issued by the complainant, same was suitably replied by this petitioner informing him that, one of the member of the petitioner's Educational Society, namely, Mrs.G.Chitra who borrowed money from the complainant had discharged the debt. However, the cheque lost by Mrs.G.Chitra been misused to prosecute the petitioner and Mrs.G.Chitra. Therefore, there is enough material to show that the cheque was not issued to discharge any liability of the petitioner and therefore, complaint to be quashed.

4. This Court, on perusing the record and the complaint finds that the specific case of the complainant is that the 3rd accused/Chitra borrowed loan of Rs.20 lakhs on behalf of M/s.Andavar Educational Society and executed pro-note assuring to repay the said amount with 24% interest within a period of 12



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months. The said pro-note dated 09.12.2021 executed by the 3rd accused not

discharged within the time promised and the interest also not paid promptly.

After repeated demand to repay the loan amount, the petitioner Society came forward to issue the cheque No.44818, dated 28.07.2023 for Rs.10,00,000/-.

5. The petitioner herein who is the Treasurer of the Bank has issued a cheque from the account maintained by the Society. Thus, the liability of the petitioner as a signatory of the cheque and the cheque issued to discharge the enforceable debt been clearly spoken in the complaint and therefore, the petition to quash is unsustainable. The disputed facts which are now placed before this Court are to be tested during the trial and therefore, the petitioner is at liberty to agitate the cause during trial by leading evidence.

6. Hence, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed.

28.10.2024

Index : Yes/No.

Neutral Citation : Yes/No.

bsm

To,

1. The Judicial Magistrate No.1, Karaikal



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Dr.G.JAYACHANDRAN, J.

bsm

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