



Crl.O.P.(MD)No.647 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **04.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.647 of 2022
and
Crl.M.P.(MD).Nos.474 & 475 of 2022

Sri Yogiram Construction,
Proprietor,
M.Karthikeyan

... Petitioner

Vs.

Sree Gokulam Chit and Finance Company Private Limited,
Represented by its Power Agent
and Deputy Manager,
K.Vishva Bharathi

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case registered in impugned complaint in C.C.No.18 of 2021 on the file of the learned Judicial Magistrate No.II, Dindigul and quash the same.

For petitioner : Mr.J.Lawrance

For Respondent : Mr.A.Abdul Kabur

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.18 of 2021 on the file of the learned Judicial Magistrate No.II, Dindigul, insofar as the petitioner is concerned.



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2. The case of the prosecution is that the petitioner herein has agreed to settle the chit dues by paying a sum of Rs.49,99,582/- to the respondent, for which, he issued a cheque to the respondent, but, the same was dishonoured as “insufficient funds”. Hence, the respondent has filed a private complaint under Section 138 of the NI Act before the learned Judicial Magistrate No.II, Dindigul.

3. The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner and there is no specific allegation as against the petitioner.

4. The learned counsel appearing for the respondent would submit that all those points raised before this Court is a triable issue, which cannot be canvassed before this Court and it can be canvassed only at the time of trial.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charges framed



against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***

6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.18 of 2021, pending on the file of the learned Judicial Magistrate No.II, Dindigul. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed. However, liberty is granted to the petitioner to canvass all the points raised in this petition before the trial Court at the time of trial.

7. At this juncture, the learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the



Crl.O.P.(MD)No.647 of 2022

petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

04.03.2024

Index : Yes/No

Internet : Yes/No

TSG

To

1.The Judicial Magistrate No.II, Dindigul.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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-M.DHANDAPANI. J.

TSG

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