



CrI.O.P.(MD)No.16418 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.16418 of 2024

and

CrI.M.P.(MD)Nos.10327 & 10329 of 2024

U.Margaret Julia

: Petitioner

Vs.

P.Eswaran

: Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the impugned private complaint in STC.No.48 of 2024 on the file of the learned Judicial Magistrate No.I (Fast Track Court at Magisterial Level), Madurai and quash the same as illegal.

For Petitioner

: Mr.A.Vadivel

ORDER

This criminal original petition has been filed seeking orders to quash the impugned private complaint in STC.No.48 of 2024 on the file



CrI.O.P.(MD)No.16418 of 2024

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of the learned Judicial Magistrate No.I (Fast Track Court at Magisterial Level), Madurai.

2.The case of the respondent is that the petitioner borrowed a sum of Rs.5,00,000/- from the respondent and he agreed to repay the said amount with 12% interest within six months, that the petitioner issued a cheque for the loan amount dated 14.12.2023, that when the cheque was presented for collection on 15.12.2023, the same was returned for the reason that “Insufficient Fund” and that the respondent has sent legal notice to the petitioner on 20.12.2023, however, the petitioner neither sent reply nor paid the amount and hence, the respondent has filed a private complaint before the learned Judicial Magistrate No.I (Fast Track Court at Magisterial Level), Madurai.

3.The petitioner's contention is that the petitioner has already settled the entire borrowed amount to the respondent, but he did not return the earlier cheque issued by the petitioner for security purpose; that the above complaint has been filed only to extract more money from the petitioner and that therefore, the petitioner is constrained to file the above quash petition.



CrI.O.P.(MD)No.16418 of 2024

WEB COPY

4. Admittedly, the petitioner has not produced any iota of materials or evidence to show that the entire amount was settled. It is not the case of the petitioner that he has taken such a stand before the trial Court.

5. Moreover, whether the plea of discharge of loan claimed by the petitioner is true or not cannot be gone into in the present proceedings and is a matter of trial. The other points/aspects canvassed by the petitioner, by no stretch or imagination can be taken as a reason or ground to quash the private complaint.

6. At this juncture, the learned counsel for the petitioner would submit that the petitioner is restricting his prayer that his personal appearance before the trial Court may be dispensed with.

7. It is evident from the records that the respondent/complainant is aged about 63 years. Moreover, in the case filed for the offence under Section 137 of Negotiable Instruments Act, if the personal appearance is dispensed with, it is very difficult to proceed with the trial of the case.



CrI.O.P.(MD)No.16418 of 2024

WEB COPY

Hence, this Court is not inclined to dispense with the personal appearance of the petitioner. But at the same time, the petitioner is at liberty to file a petition under Section 317 of Cr.P.C., and the learned Magistrate is directed to consider the same on merits and in accordance with law.

8. In the result, this Criminal original petition is dismissed.
Consequently, connected miscellaneous petitions are closed.

30.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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CrI.O.P.(MD)No.16418 of 2024

K.MURALI SHANKAR,J.

das/gns

To

The Judicial Magistrate No.I
(Fast Track Court at Magisterial Level),
Madurai.

CrI.O.P.(MD)No.16418 of 2024

30.09.2024