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CrI.O.P.No. 7221 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.7221 of 2025 and
CrI.M.P.No.4582 of 2025

G.Deepak Govindan

... Petitioner

Vs.

M.Senthil Kumaran

..Respondent

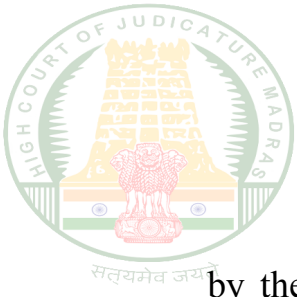
PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash the complaint pending before the Fast Track Court Magistrate, Ambattur bearing S.T.C.No.104 of 2024 filed by the respondent.

For Petitioner : M/S.P.Sathya

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in S.T.C. No. 104 of 2024 pending on the file of the Fast Track Court Magistrate, Ambattur.

2. The petitioner is the sole accused in the private complaint filed



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by the respondent for the offence under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as “the Act”). The allegation in the complaint is that on 20.01.2020, the petitioner had approached the respondent and borrowed a sum of Rs.5,00,000/-, thereby agreeing to repay the same with interest at the rate of 18% per annum. Towards this, the petitioner is stated to have executed a loan agreement referred to as a “promissory note” and also issued a post-dated cheque for Rs.5,00,000/-. It is further alleged that the petitioner regularly paid monthly interest through bank transfers. However, he defaulted in payment of interest for six months. Despite repeated demands, the petitioner failed to repay both the interest and the principal loan amount. When the respondent approached the petitioner seeking repayment, the petitioner allegedly instructed the respondent to present the cheque for encashment. Upon presentation, the cheque was returned unpaid with the endorsement “Refer to drawer.” A legal notice was issued demanding repayment, but the petitioner failed to make payment, prompting the respondent to initiate prosecution.

3. The learned counsel for the petitioner submitted that there was



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no commercial transaction between the parties and that the cheque in question was issued only as a security. It is further contended that the continuance of the criminal proceedings would amount to an abuse of process of law and, therefore, seeks quashing of the same.

4. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

5. The complaint specifically alleges that the petitioner had borrowed a sum of Rs.5,00,000/- and had issued a post-dated cheque for repayment. That apart, the petitioner, upon being approached by the respondent, instructed him to present the cheque for encashment. In such circumstances, it cannot be concluded, at this stage, that the cheque was issued merely as a security. The veracity of such a claim is a matter for trial and cannot be decided in a petition under Section 528 of BNSS, 2023. Therefore, this Court is of the considered view that the complaint discloses the necessary ingredients to proceed under Section 138 of the Act. The contentions raised by the petitioner are factual in nature and require appreciation of evidence, which can only be done during the



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course of trial.
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6. In light of the above, this Court finds no merit in the present petition and is not inclined to quash the proceedings in S.T.C.No.104 of 2024 pending on the file of the Fast Track Court Magistrate, Ambattur. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

13.03.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk

To

1. Fast Track Court Magistrate, Ambattur
2. The Public Prosecutor,

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High Court, Madras.
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