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Crl.O.P.No.11451 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2025

CORAM:

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

Crl.O.P.No.11451 of 2025
and Crl.M.P.Nos.7613 and 7614 of 2025

Chandrasekar

... Petitioner

Vs.

Elumalai

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., /528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to S.T.C.No.452 of 2022 pending trial on the file of the learned District Munsif Cum Judicial Magistrate Court, Thandrapattu, Thiruvannamalai and to quash the same.

For Petitioner : Mr. N.Arun Kumar

ORDER

This petition has been filed to quash the proceedings in S.T.C.No.452 of 2022 on the file of District Munsif Cum Judicial Magistrate Court, Thandrapattu, Thiruvannamalai.

2.The petitioner is an accused in the complaint lodged by the



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respondent for the offence U/s.138 of Negotiable Instruments Act, alleging that the respondent paid a sum of Rs.1,50,000/- in 60 instalments to purchase the property No.5. As per conditions, after receipt of the money, the petitioner ought to have registered the property in favour of the respondent. However, the petitioner failed to register any document and also failed to return the money. When it was questioned by the respondent, the petitioner issued a cheque for sum of Rs.1,60,000/- and when the same was presented for collection, it was returned dishonoured for the reason funds insufficient. After causing notice, the respondent was instructed to represent the cheque and the same was also returned for the reason funds insufficient. After causing statutory notice, the respondent filed a complaint.

3.The learned counsel for the petitioner would submit that the 1st notice was suppressed by the petitioner and only on the 2nd notice respondent filed the complaint. Therefore, the complaint is not maintainable.

4.On a perusal of the records, it is seen that when the cheque was



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presented for collection for the first time, it was dishonoured for the reasons of insufficient funds. It was duly informed to the petitioner and only on the instruction given by the petitioner the cheque was represented once again for collection and for the second time also it was dishonoured for the reason funds insufficient. Therefore, after causing notice U/s.138 of N.I.Act, the respondent filed a complaint. Hence, this Court finds no irregularity in the complaint and the complaint is very much maintainable to take cognizance for the offence U/s.138 of N.I.Act. This apart, there is a mixed question of law and fact and that cannot be considered by quashing the entire complaint. It can be agitated before the trial Court during cross examination.

11.In view of the above discussion, this Court is not inclined to quash the proceedings in S.T.C.No.452 of 2022, on the file of the learned District Munsif cum Judicial Magistrate Court, Thandrapattu, Thiruvannamalai. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after

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filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment. The trial Court is directed to complete the trial within a period of six (6) months from the date of receipt of copy of this Order.

12. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

17.04.2025

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Index : Yes/No

Neutral citation : Yes/No

To

1.The District Munsif Cum Judicial Magistrate Court
Thandrapattu

Crl.O.P.No.11451 of 2025
and Crl.M.P.Nos.7613 and 7614 of 2025