IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2025

CORAM:

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

Crl.O.P.No.19336 of 2024
and Crl.M.P.No.11356 of 2024

R.Sakthivel ... Petitioner

Vs.

S.Parivallal ... Respondent

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order dated 06.02.2024 passed by the learned Additional District Munsif cum Judicial Magistrate, Ambur, Vellore District in C.M.P.No.4251/2022 in S.T.C.No.83 of 2022 directing the petitioner to produce his IT returns for the year 2018-2019 and to produce chit accounts book before the Court by allowing this Criminal Original Petition.

For Petitioner : Mr.D.Thirumoorthy

For Respondent : No appearance

ORDER

This petition has been filed challenging the order dated 06.02.2024 on the file of the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, in C.M.P.No.4251 of 2022 in S.T.C.No.83 of 2020, thereby directed the petitioner to produce Income Tax returns and to produce Chit account book.

2. Heard the learned counsel appearing for the petitioner. Though notice served and name printed in the cause list, no one is appeared on behalf of the respondent.

3. The petitioner is the complainant and the respondent is the accused. The complaint has been filed for the offence punishable under Section 138 of Negotiable Instruments Act. The case of the petitioner is that the respondent borrowed a sum of Rs.5,00,000/- and also executed a promissory note to that extent. In order to repay the said amount, the respondent issued cheque and the same was presented for collection. But the said cheque was returned dishonour for the reason that "payment stopped by the drawer".

4. While pending the trial, the respondent filed petitions to get experts opinion on the cheque and also to direct the petitioner to produce the Income Tax returns and chit book. It is not the case of the petitioner that the petitioner is running chit and after obtaining the chit amount, the respondent failed to pay the amount. Further the Income Tax return no way connected with the present case, since, if the respondent raised specific ground that the petitioner has no source of income to lend such a huge money, then the respondent can ask for production of document to substantiate the income of the petitioner. Admittedly, after receipt of the notice issued as contemplated under Section 138 of Negotiable Instruments Act, the respondent did not even reply and raise his defence. Therefore, the trial Court ought not to have allowed the petition and the impugned order is liable to be quashed.

5. Accordingly, the impugned order dated 06.02.2024 passed by the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, in C.M.P.No.4251 of 2022 in S.T.C.No.83 of 2020, is hereby quashed. The trial Court is directed to proceed with the trial and complete the same within a period of six months from the date of receipt of a copy of this Order.

6. With the above directions, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

06.02.2025

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

rts

To

Additional District Munsif cum Judicial Magistrate,
Ambur, Vellore District

G.K.ILANTHIRAIYAN, J.

rts

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