IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2025

CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.24002 of 2025

Sekaran ... Petitioner

Vs.

E.N.Sudarsanam ... Respondent

PRAYER : Criminal Original Petition is filed under Section 528 of BNSS, to call for the records and set aside the order in connection with the order passed by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore @ Allikulam at Chennai in Crl.M.P.No.11859 of 2025 dated 21.08.2025 in S.T.C.No.8160 of 2024 on the file of the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore @ Allikulam at Chennai.

For Petitioner	:	Mr.S.Senthilvel
For Respondent	:	Mr.R.Vinothraja Government Advocate (Criminal Side)

ORDER

Challenge has been made to the order of the trial Court dated 21.08.2025, dismissing the application filed by the petitioner under Section 91 Cr.P.C., seeking to summon the Income Tax Returns of the complainant.

2. The contention of the learned counsel appearing for the

petitioner is that the petitioner has been arrayed as an accused in S.T.C.No.8160 of 2024, which was taken on file based on a complaint given by the respondent alleging that the petitioner borrowed a sum of Rs.40 lakhs and issued a cheque, which was subsequently returned with the endorsement 'Funds Insufficient'. The petitioner filed an application in Crl.M.P.No.11859 of 2025 dated 21.08.2025 in S.T.C.No.8160 of 2024 seeking to summon the documents pertaining to the income tax returns of the complainant. However, the trial Court, holding that the petition was filed only to delay and drag on the proceedings and that the complainant had not admitted for the production of such documents, dismissed the application vide order dated 21.08.2025. Hence the present petition has been filed.

3. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

4. It is the contention of the learned counsel appearing for the petitioner that PW1 admitted in his evidence that he had filed the income tax returns during the relevant period. It is not the case of the petitioner that the said amount was never shown in the income tax returns. The witness himself admitted that he had filed the income tax return with regard to the same.

5. On perusal of the records, this Court is of the view that the application under Section 91 Cr.P.C. was filed at the fag end of trial and despite several attempts having been made by the petitioner, he has filed the petition as if the complainant had admitted that the payment of the loan was shown in the income tax returns. The trial Court, taking note of the conduct of the petitioner, dismissed the petition.

6. In view of the above, this Court is of the opinion that if the petitioner intends to disprove the complainant, he may call for the necessary documents from the authorities concerned and he may also examine the authorities as witness, instead, filing the petition under Section 91 Cr.P.C, which is not maintainable.

7. Accordingly, the Criminal Original Petition is dismissed.

01.09.2025

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Neutral Citation:Yes/No
To : The Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai

<u>N. SATHISH KUMAR, J.</u>
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