



Crl.OP.No.31878 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

CORAM:

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

Crl.O.P.No.31878 of 2024
and
CRL.MP.Nos.18159 of 2023

K.S.Kannan

... Petitioner

Vs.

Lekha Sankar

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with STC.No.2758 of 2022 pending on the file of Fast Track Court-IV George Town, Chennai and quash the same.

For Petitioners : Mr.J.Umacharan

For Respondent : No Appearance

ORDER

This Criminal Original Petition is filed to quash the proceedings in STC.No.2758 of 2022 pending on the file of Fast Track Court-IV, George Town, Chennai.



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2. The respondent filed a complaint for the offence punishable under Sections 138 of Negotiable Instruments Act as against the petitioner alleging that the petitioner had borrowed a sum of Rs.15,00,000/- as financial assistance for his pharmacy business and both are entered into an investor agreement dated 11.04.2011. After the demise of the respondent's husband, she demanded to repay the principal amount and arrears of profit i.e., Rs.23,30,000/-, hence the petitioner has issued two cheques for an amount of Rs.3,30,000/- dated 15.07.2021 and another cheque for a sum of Rs.10,00,000/- dated 15.07.2021 towards part payment. The respondent has presented both cheques on 13.08.2021 and the same were returned on 17.08.2021 with an endorsement, " Kindly Contact Drawer/Drawee". It is also alleged that there was no sufficient funds in your account to honour the above said cheques and the returned cheques were received by her on 19.08.2021. After issuing legal notice to the petitioner, the respondent has lodged complaint against the petitioner.



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3. The learned counsel appearing for the petitioner submits that there is no such legally enforceable debt/outstanding/due from the petitioner side and all the allegations stated against the petitioner in the above complaint are false, vexatious, frivolous and taking vengeance. Hence, the same has to be quashed.

4. Though notice was served on the respondent and her name also printed in the cause-list, it was returned as "unclaimed". It can be taken as sufficient service, even then the respondent did not appear before this Court either in person or through counsel.

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

6. A perusal of records revealed that in order to repay the loan amount, the petitioner had issued two cheques for a sum of Rs.3,30,000/- and Rs.10,00,000/- respectively. When both the cheques were presented for collection, the same were dishonoured and returned with an endorsement " Kindly Contact the Drawer/Drawee". Therefore, the reasons stated in the return memo are not considered as reasons that would attract the provisions under Section 138 of Negotiable Instruments



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Act. It does not conclusively indicate that the cheques were returned for any reason " insufficient funds" or any other reason as contemplated under Section 138 of Negotiable Instruments At.

7. That apart, even according to the respondent, she entered into the Investors Agreement on 11.04.2011. However, for the first time the petitioner has issued cheque to share the profits in the year 2021. In view of the above, the present complaint is a clear abuse of process of law and it cannot be sustained as against the petitioner and liable to be quashed.

8. Accordingly, the proceedings in STC.No.2758 of 2022 on the file of the learned on the file of Fast Track Court-IV George Town is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petition is closed.

29.04.2025

Vv

To

1. The Fast Track Court-IV George Town, Chennai
2. The Public Prosecutor, High Court of Madras, Chennai.

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G.K.ILANTHIRAIYAN, J.

Vv

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