



CrI.O.P.(MD)No.13005 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2025

CORAM:

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.O.P(MD).No.13005 of 2025

and

CrI.M.P(MD)No.10212 of 2025

P.Vengudusamy

... Petitioner

Vs.

K.Muthukumar

... Respondent

Prayer: Criminal Original Petition has been filed under Section 528 of BNSS to call for the records pertaining to S.T.C.No.268 of 2024, on the file of the Learned Fast Track Court at Magistrate Level, Karur and quash the same as illegal.

For Petitioner

: Mr.S.M.A.Jinnah

ORDER

The petitioner/accused has filed this application to quash the proceedings pending against him in S.T.C.No.268 of 2024 on the file of the learned Judicial Magistrate/Fast Track Court at Magistrate Level,



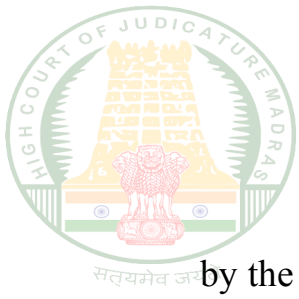
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Karur. The said complaint was filed by the 2nd respondent for the offence punishable under Section 138 of the Negotiable Instrument Act, 1881.

2. According to the complainant, the petitioner is said to have borrowed a sum of Rs.1,75,000/- from the complainant by way of cash for his urgent family and business needs and has issued the subject cheque bearing No.000118 dated 09.02.2024. This cheque, when presented by the respondent/complainant, got returned on 'stop payment' instructions made by the petitioner. After issuing statutory notice, the complainant has filed the above complaint.

3. The learned counsel appearing for the petitioner submits that the complainant is a stranger to him. He is not having any transaction with the complainant. In fact, he had some transaction with one M/s.Ganesh Murugan Auto Finance. He has also settled the dues to Mr.Gunasekaran. However, the cheque which has been given to Gunasekaran at the time of purchasing JCB Machine has been utilized by the Gunasekaran through the complainant to foist this complaint as against the petitioner. The petitioner has also reported to his bankers that this cheque may be misused



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by the financier and therefore, the cheque was also returned on the ground of stop payment instructions provided by this petitioner. According to the learned counsel for the petitioner there is no privity of contract and there is no transaction between the complainant and there is no legally enforceable debt arising out of this cheque. Therefore this case is liable to be quashed.

4. This Court considered the submissions of the learned counsel for the petitioner.

5. Whether this petitioner has borrowed money or not from the complainant is a matter for evidence, which can be elicited only during the trial. Mere because of the fact that the petitioner has given the stop payment instruction and thereby the cheque got dishonoured, this Court cannot quash the proceedings which is pending in S.T.C.No.268 of 2024. However, it is up to the petitioner to raise this ground during the trial and can also adduce evidence before the Trial Court. The Trial Court is expected to take a call based on the evidence, if any, produced by the petitioner.



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6. With this observation, the criminal original petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

04.08.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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To
The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

rgm

CrI.O.P(MD).No.13005 of 2025
and
CrI.M.P(MD)No.10212 of 2025

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