

Crl.O.P.(MD)No.22455 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22455 of 2024

and

Crl.M.P(MD) No.14016 and 14017 of 2024

M.Sivakumar

.. Petitioner

Vs

Sankar

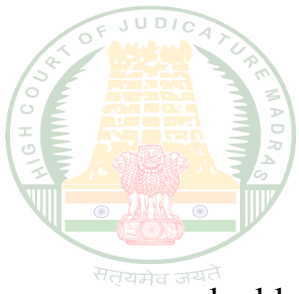
.. Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the private complaint in C.C.No.247 of 2024 on the file of the Judicial Magistrate No.I, Sivagangai, Sivagangai District and quash the same.

For Petitioner : Mr.S.Saravana Kumar

ORDER

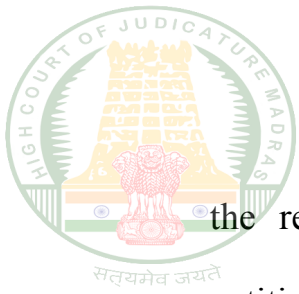
The petitioner/accused in C.C.No.247 of 2024 facing trial for the offence under Section 138 of the Negotiable Instrument Act based on the complaint of the respondent, had filed this quash application.



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2.The primary ground raised by the petitioner is that the petitioner had lost her cheque in the year 2020. Thereafter, he had also given a letter to his bank to this effect. However, it has been projected as though the petitioner had taken a loan on 07.01.2024 for the tune of Rs.8 lakhs from the respondent and to discharge his liability, the cheque was given by the petitioner. When the same was presented, it was declined and hence, statutory notice was issued on 03.08.2024. On receiving the same, the petitioner immediately replied stating that the respondent is a total stranger to the petitioner and the cheque is without any liability. However, the case has been registered as against the petitioner. Hence, the petitioner sought for quashing of the complaint.

3.Perusal of the typed set of papers including the legal notice issued by the respondent, it is seen that the petitioner attempts to give an explanation that the petitioner's brother, who is a real estate business wanted to buy a car on loan. Since the government employees have been given an exemption and the petitioner is also a Government servant, the brother of the petitioner approached the petitioner to purchase the car and hence, the petitioner given the cheque to him. Thereafter, the said cheque got mixed up with his brother's other cheques. The respondent is also in



the real estate business and there is some dispute between the petitioner's brother and the respondent and hence, the false case has been lodged against the petitioner.

4. These are the matters to be necessarily decided during trial and not in the quash application. Though the reply given by the petitioner has been considered by the complainant and finding it false, it was rejected. At this stage, this Court is not inclined to entertain this petition. Accordingly, this petition is **dismissed**.

5. At this juncture, the learned counsel for the petitioner submits that the petitioner is working as a PET Teacher in the Government Higher Secondary School, Kattukudipatti, Singapureri Taluk, Sivagangai District. Since the case has been filed before the learned Judicial Magistrate, Sivagangai and the regular appearance of the petitioner before the trial Court would affect his profession and it would cause disturbance to his job, the petitioner seeks to exempt his appearance before the trial Court.

6. This Court is of the view that the petitioner can very well file an application before the trial Court seeking exemption for his appearance. It



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is for the trial Court to decide the same on merits and in accordance with law. Consequently, connected miscellaneous petitions are closed.

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31.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Judicial Magistrate No.I,
Sivagangai, Sivagangai District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

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