

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.18281 of 2015
and MP.Nos.1,2 of 2015

P.Narmadha

... Petitioner

Vs

S.Gopi

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the respondent to call for the records STC.No.303 of 2013 on the file of Fast Track Judicial Magistrate-I, Erode and quash the same.

For Petitioner : Mr.R.Nalliyappan

O R D E R

This petition has been filed to quash the proceedings in STC.No.303 of 2013 on the file of the learned Fast Track Judicial Magistrate-I, Erode.

2. Heard the learned counsel for the petitioner and perused the materials placed on record.

3. The petitioner is challenging the prosecution launched by the respondent in STC.No.303 of 2013 before the learned Fast Track Judicial Magistrate-I, Erode under Section 138 of Negotiable Instruments Act for dishonour of a cheque bearing No.364281 dated 05.04.2013 for Rs.1lakh of ICICI Bank, Erode branch issued in favour of S.Gopi.

4. On a perusal of the cheque, it bears a signature and below the signature, there are two names Prakash.P and P.Narmatha. The said cheque has been issued from a joint account maintained by P.Prakash and his wife P.Narmatha in account No.606201514483 with ICICI Bank, Erode branch.

5. On a perusal of the cheque, under ordinary circumstances, it is not possible to decipher who had signed it because, the signature is unintelligible. Naturally, the complainant had lodged the complaint against both P.Prakash and P.Narmatha showing them as accused. Therefore, this Court directed P.Narmatha [petitioner herein] to take a stand as to who has signed the impugned cheque by filing an affidavit.

6. Today, P.Narmatha has filed an affidavit in which, she has stated that the said cheque was signed by her husband P.Prakash. Of course in the affidavit, she has taken certain defenses which, neither this Court nor the Trial Court can go into at this juncture. In Aparna A.Shah Vs Sheth Developers Pvt. Ltd. & Another 2013 [2] MWN [Cr.] DCC 97 [SC], the Hon'ble Supreme Court has held that in cases where a cheque has been issued from a joint account, the person who has signed the cheque alone can be prosecuted.

7. In view of the aforesaid judgment, it appears that P.Narmatha cannot be prosecuted as she has taken a stand that she has not signed the cheque. On this ground, if this quash petition is admitted, it will take a very long time for the trial to be completed. Therefore, this Court directs that learned Fast Track Judicial Magistrate-I, Erode to conduct an enquiry in this regard and if it is found that P.Narmatha had not signed the cheque, she should be discharged from the prosecution immediately and the prosecution can proceed against Prakash in accordance with law. This exercise shall be completed within four weeks, from the date of receipt of a copy of this order.

With the above direction, this petition is closed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.Fast Track Judicial Magistrate-I,
Erode.

2.The Public Prosecutor,
High Court, Madras.

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