

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2015

CORAM

The Hon'ble Mr. Justice R.S.RAMANATHAN

Crl.O.P.No.4846 of 2010 and
M.P.Nos.1 and 2 of 2010

Mumtaz Begum
Partner, A Square Enginers
30/11 A.S.M.Layout Hasthampatty,
Hasthampatty, Salem 636 007. ...Petitioner

vs.

Ajay L.RajpalRespondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for records relating to the case in C.C.No.448 of 2009, on the file of the Judicial Magistrate No.III, Salem, and to quash the same as against the petitioner.

For Petitioner : Mr.K.V.Sridharan

O R D E R

The petitioner herein is the third accused in C.C.No.448 of 2009, on the file of Judicial Magistrate Court No.III, Salem, and this Petition is filed to quash the said case insofar the petitioner is concerned.

2. It is submitted by the learned counsel appearing for the petitioner that, even according to the complaint, the petitioner and second accused borrowed a sum of Rs.4,00,000/- for their personal expenses from the respondent/complainant, and towards discharge of the said amount, a cheque, signed by the second accused in the capacity of Managing Partner, was issued, and the said cheque was dishonoured later. The learned counsel, therefore, submitted that, when the amount was borrowed for the personal expenses of accused Nos. 2 and 3, and the cheque was issued by second accused, as Managing Partner of the Partnership Firm, in the absence of any specific allegation in the complaint that the petitioner/accused No.3 has played active role in the business of the Firm, the petitioner cannot be made liable. Hence, the learned counsel submitted that the complaint is liable to be quashed.

3. I am unable to accept the contentions of the learned counsel appearing for the petitioner. In para No.3 of the complaint, in addition to the allegation that the accused Nos.2 and 3 borrowed Rs.4,00,000/- for their personal expenses, it has been stated that accused No.3, the petitioner herein assured the respondent/complainant that she was also in the active business of the Partnership Firm, and promised to repay the borrowed amount along with interest, and both accused executed necessary instruments for having received Rs.4,00,000/- as loan. It is further stated in the complaint that the accused Nos.2 and 3 came to the Office of the complainant, and accused No.2 issued a cheque drawn on the account maintained by A Square Engineers, a Partnership Firm in the capacity of Managing Partner, and accused Nos.2 and 3 requested further time for paying the interest covered under the loan. Therefore, according to me, necessary allegations are made in the complaint for taking cognizance of the case against the petitioner. Hence, I do not find any merit in this Petition.

4. In the result, the Criminal Original Petition is dismissed with liberty to the petitioner to substantiate her case that she was not having active part in the business of the Partnership Firm or the amount was not payable by her by adducing evidence. The Trial Court is directed to dispose of the case in C.C.No.448 of 2009, within a period of four months from the date of receipt of a copy of this order. Consequently, connected M.Ps. are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

sd

To

The Judicial Magistrate No.III, Salem.

2. -do- Through The Chief Judicial Magistrate Salem.

RJ(CO)
EU 15.07.15

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