

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.28172 of 2015

and M.P.No.1 of 2015

U.Vijayakumari Petitioner/Accused

Vs

U.Kumar Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to quash all further proceedings in C.C.No.2/2014 on the file of District Munsif cum Judicial Magistrate, Thirukkalukundram as against the petitioner.

For Petitioner : Ms.S.Annakkodi

ORDER

The present criminal original petition has been filed to quash all further proceedings in C.C.No.2 of 2014 on the file of learned District Munsif cum Judicial Magistrate, Thirukkalukundram as against the petitioner.

2. In view of the limited order going to be passed hereunder, this Court is of the opinion that there is no need to issue notice to the respondent.

3. The respondent herein lodged a private complaint as against the petitioner herein under Section 138 of the Negotiable Instruments Act. In the said complaint, it has been stated that the petitioner and her family is well known to the respondent as they are living in the same street. The petitioner and her husband used to seek financial help from the respondent often as he is a landlord owning more than 20 acres of fertile agricultural land. During the first week of June, 2013, the petitioner borrowed a sum of Rs.7,00,000/- from the respondent as short term hand loan for her urgent needs. Towards discharge of the said loan, the petitioner issued a post

dated cheque dated 1.7.2013 bearing No.174400 for a sum of Rs.7,00,000/- drawn on Indian Bank, Anupuram Branch. The petitioner requested the respondent to present the cheque for collection during the last week of August, 2013. When the respondent presented the cheque for collection on 27.8.2013, the same was returned with an endorsement "funds insufficient". Hence, after giving statutory notice, the respondent has filed the present complaint.

4. Learned counsel appearing for the petitioner submitted that the petitioner's husband received only a sum of Rs.1,50,000/- from the respondent and for that amount, he executed a promissory note on 15.2.2012. Her husband has also issued a blank cheque to the respondent towards the security of the loan. Taking advantage of the said blank cheque, the respondent filled up the same and filed the present complaint. As on date, there is no legally enforceable liability on the part of the petitioner. Hence, she has filed the present petition to quash the said proceedings in C.C.No.2 of 2014 pending on the file of the learned District Munsif cum Judicial Magistrate, Thirukkalukundram.

5. However, I am of the considered opinion, the scope of Section 482 Cr.P.C. to quash the proceedings in a criminal case is very limited. If the allegations made in the complaint do not constitute any offence, then the proceedings can be quashed. Here, in the instant case, on a reading of the complaint, I find that the allegation made in the complaint makes out a prima facie case under Section 138 of the Negotiable Instruments Act. Further, I am of the opinion, the grounds raised by the learned counsel appearing for the petitioner may be a defence, which have to be agitated only during the course of trial. Thus, I do not find any valid ground warranting this Court to quash the said proceedings.

6. In fine, the criminal original petition is dismissed. However, the petitioner is at liberty to raise all the defence during the course of trial. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

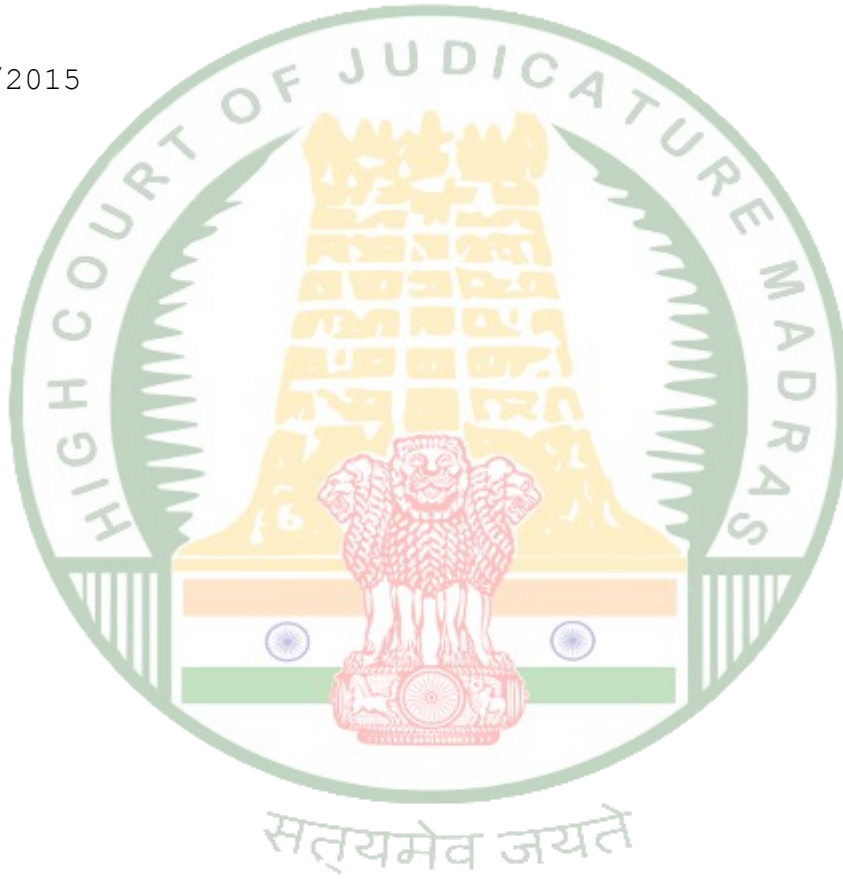
To

The District Munsif cum
Judicial Magistrate,
Thirukkalukundram.

+1cc to Mr.S.Annakodi, Advocate sr.67545

Cr1.O.P.No.28172 of 2015

sv[co]
srg 28/12/2015



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