

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.216 of 2016

and Crl.MP.Nos.1522 and 1523 of 2016

A.Gayathri .. Petitioner / Accused

Vs.

M.Jaishankar .. Respondent / Complainant

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the process issued to the petitioner/accused in CC.No.2623 of 2015 on the file of the learned Metropolitan Magistrate No.II, Allikulam, Chennai.

For Petitioner : Mr.R.Thirumoorthy

For Respondent : No appearance.

ORDER

This Criminal Revision is directed against the process dated 05.11.2015 issued to the petitioner/accused in CC.No.2623 of 2015 on the file of the learned Metropolitan Magistrate No.II, Allikulam, Chennai.

2.On reading of the complaint, there is no subsisting legally enforceable debt accepted between the parties and the order of the II Metropolitan Magistrate, Egmore, Chennai suffers serious illegality and infirmity and the same should be quashed. In order to harass the petitioner, the present petition is filed by the respondent/complainant and summons were issued to the petitioner. The trial Court without considering the facts of the case, issued summons to the petitioner, the prays to be set aside the order of the trial Court and allow the criminal revision.

3.Heard the learned counsel for the petitioner and this Court perused the entire records.

4.On perusal of records, the respondent/complainant filed complaint before the trial Court alleging that the accused had issued account payee cheque bearing No.000001 dated 27.07.2015 for a sum of Rs.3,00,000/- drawn on Karur Vysya Bank Ltd., No.103/1 (New No.193/1), Triplicane, High Road, Triplicane, Chennai and the

cheque was presented for collection through the complainant banker/Canara Bank, Vepery, Chennai, the same was returned unpaid vide cheque return memo dated 28.07.2015 with an endorsement "Payment stopped by Drawer". In view of the same, the respondent issued legal notice through advocate on 04.08.2015, the same was served on the accused on 05.08.2015. Hence, the complaint was lodged by the respondent before the Court. On satisfying with the reasons stated in the complaint, the learned Metropolitan Magistrate issued process to the accused. Whether there is any subsisting enforceable debt between the parties, has to be decided at the time of trial, after adducing evidence by the parties. It is premature to decide at this stage of issue of process by the learned Metropolitan Magistrate. This Court finds no illegality or infirmity in the order passed by the learned II Metropolitan Magistrate, Egmore, Chennai and the same does not warrant any interference by this Court.

5. In the result, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petitions are closed. The trial Court is directed to dispose of the main case preferably within a period of eight weeks from the date of receipt of a copy of this Order and report the same to this Registry.

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Sd/-

Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1. The II Metropolitan Magistrate,
Allikulam, Chennai.
2. The Chief Metropolitan Magistrate,
Allikulam, Chennai.
3. The section Officer, Criminal Section,
High Court, Madras.

+1 CC Mr.R.Thirumoorthy Advocate SR.No.55365

+1 CC Mr.N.Naresh, Advocate SR.No.54735

Order in

Cr1.R.C.No.216 of 2016

NRJK

MSI 19/10/2016