

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.16695 of 2016 & Crl.M.P. No.8065 of 2016

1 A.Shanthi Anbazhagan
2 Thilagavathi Anbazhagan Petitioners/A2 & A4

vs.

Kotak Mahindra Bank Limited
I Floor, Ceebros Center
45 Montieth Road
Egmore, Chennai 600 008
represented by its Deputy Manager &
Authorised Signatory
K. Surendran Respondent

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C. No.242 of 2015 on the file of the Fast Track Court, Alandur, Chennai and quash the entire proceedings.

For petitioners Mr. R. Muniyapparaj

For respondent Mr. R. Ponraj

ORDER

This Criminal Original Petition has been filed seeking to call for the records in C.C. No.242 of 2015 on the file of the Fast Track Court, Alandur, Chennai and quash the entire proceedings.

2 It is seen that Kotak Mahindra Bank Ltd., the respondent herein, has launched a prosecution in C.C. No.242 of 2015 before the Fast Track Court, Alandur, Chennai, under Section 138 of the Negotiable Instruments Act, 1881, against Lakshmi Ranga Enterprises Pvt. Ltd. (A1) and 4 others, challenging with Shanthi Anbazhagan (A2) and Thilagavathi Anbalagan (A4) are before this Court.

3 Heard Mr. R. Muniyapparaj, learned counsel for the petitioners/accused and Mr. R. Ponraj, learned counsel for the complainant.

4 The learned counsel for the complainant submitted that when the loan was availed, the petitioners were also part of Lakshmi Ranga Enterprises Pvt. Ltd. (A1).

5 Per contra, the learned counsel for the petitioners/accused submitted that the only averment about the petitioners is in paragraph no.2 of the complaint which reads as follows:

"2. The complainant states that the others 2nd, 3rd, 4th and 5th accused aware of the entire transactions and signed the loan documents as co-borrowers for the repayment of the aforesaid loan amount and hence, they are also severally and jointly liable for the repayment of loan amount to the bank."

6 This Court carefully perused the complaint and finds that apart from the aforesaid averment, there is no other averment in the complaint as against the petitioners herein.

7 The learned counsel for respondent/complainant submitted that the signature in the cheque is indecipherable and it is not known as to who had signed the cheque.

8 As a riposte, the learned counsel for the petitioners/accused, on instructions, submitted that the cheque has been signed by Anbalagan Ranganathan (A3), who is none other than the husband of Shanthi Anbazhagan (A2) and father of Thilagavathi Anbazhagan (A4). The aforesaid submission of the learned counsel for the petitioners/accused is recorded and accepted. Anbalagan Ranganathan (A3) cannot now plead that he has not signed the impugned cheque, which is the subject matter of the prosecution in C.C. No.242 of 2015. The minimum averments that are required to fasten criminal liability against the petitioners with the aid of Section 141 of the Negotiable Instruments Act is miserably absent in the present complaint.

In view of the above, this Criminal Original Petition is allowed and the prosecution in C.C. No.242 of 2015 as against the petitioners alone, is hereby quashed. Connected CrI.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

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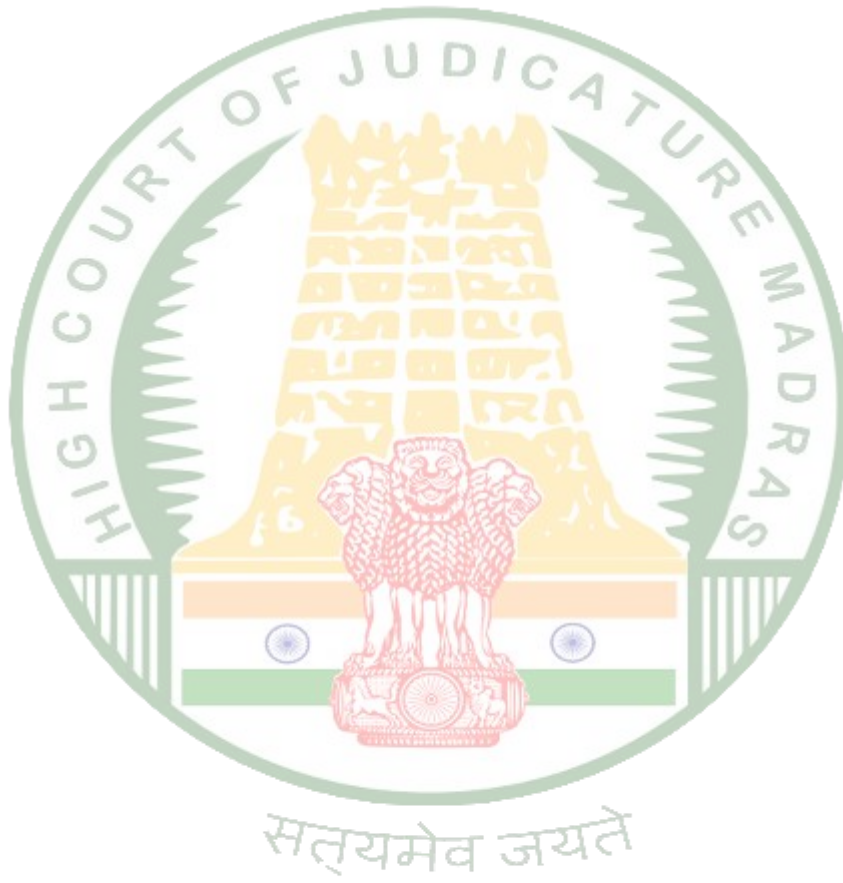
Sub Assistant Registrar

cad
To
The Fast Track Court, Alandur, Chennai

PVS (CO)

CrI.OP.No.16695 of 2016

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