

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.Nos.24979 and 24980 of 2016
and
Crl.M.P.Nos.12075, 12076, 12077 & 12078 of 2016

1.A.M.Raman

2.Mrs.Bhanu Raman ... Petitioners in both Crl.O.Ps.

Vs.

C.M.Lalitha ... Respondent in both Crl.O.Ps.

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C to call for the records relating to the case in C.C.Nos.2251 and 2250 of 2016 respectively on the file of the Learned IX Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mr.R.Sathiyamoorthy

For Respondent : Mr.R.Sathish Kumar

O R D E R

These Criminal Original Petitions have been filed seeking to call for the records relating to the case in C.C.Nos.2251 and 2250 of 2016 respectively on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

2. Heard the learned counsel for the petitioners.

3. For the sake of convenience, the parties are referred to by their name.

4. It is the case of one C.M.Lalitha, [Complainant] that A.M.Raman and his wife Bhanu Raman had taken a portion of her house on monthly rent and had agreed to pay a rent for Rs.20,000/- (Twenty thousand only] per month. The couple did not pay the agreed rent and there was some arrears. When C.M.Lalitha demanded payment of rent, Bhanu Raman had given two cheques, viz., cheque nos.815356 dated 10.11.2015 and 815357 dated 30.11.2015 for Rs.90,000/- each. The cheques

were presented on various dates by C.M.Lalitha and they were dishonored on the ground of "insufficient fund". C.M.Lalitha issued a statutory notice and thereafter, has filed two complaints, viz., C.C.Nos.2250 of 2016 and 2251 of 2016 and both the complaints are now pending on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai, under Section 138 of Negotiable Instruments Act, 1881 (for brevity "the NI Act"), against A.M.Raman [A1] and Bhanu Raman [A2], challenging which, both the accused are before this Court.

5. The learned counsel for the petitioners/accused submitted that even according to C.M.Lalitha, the impugned cheques were issued by Bhanu Raman and not by A.M.Raman. Just because A.M.Raman is the husband of Bhanu Raman, he cannot be made criminally liable under Section 138 of the NI Act.

6. This Court perused the impugned cheques. The signature in the cheque is indecipherable. Though Mr.Sathiyamoorthy, learned counsel for the petitioners/accused submitted that the cheques have been issued by Bhanu Raman on a perusal of the copies of the same, that are enclosed in typed sets of papers, this Court finds that one cannot decipher as to who has signed the cheques.

7. Therefore, this Court asked the accused to file an affidavit to confirm who had signed the impugned cheques. Bhanu Raman has filed a sworn affidavit dated 22.11.2016, wherein, at paragraph 3, it is stated as follows:-

"I further state that I have alone appended my signature alone in the cheques bearing Nos.815356 and 815357 drawn on Indian Bank in the capacity of an authorized signatory for the Royal Institute of MANG STU Application which function under the Saraswathi Education Institution and Health Trust which being the subject matter of the Crl.O.Ps. stated supra". सत्यमेव जयते

8. Mr.R.Sathish Kumar, learned counsel for the respondent/complainant fairly conceded that the signatory of the cheque is only Bhanu Raman and A.M.Raman cannot be made liable for the act of Bhanu Raman issuing the cheques, which had been dishonored.

9. In view of the above, these Criminal Original Petitions are partly allowed and the prosecution against A.M.Raman alone in C.C.Nos.2250 and 2251 of 2016 before the IX Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed. It is not open to Bhanu Raman to take a defence that she has not signed the cheques in view of the affidavit, that has been filed before this Court, admitting that she has signed the cheques. Bhanu Raman is directed to surrender before the Trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, she shall be

released on bail on the same day under section 436 Cr.P.C. on she executing a bond for Rs.10,000/- with one surety. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

kmi

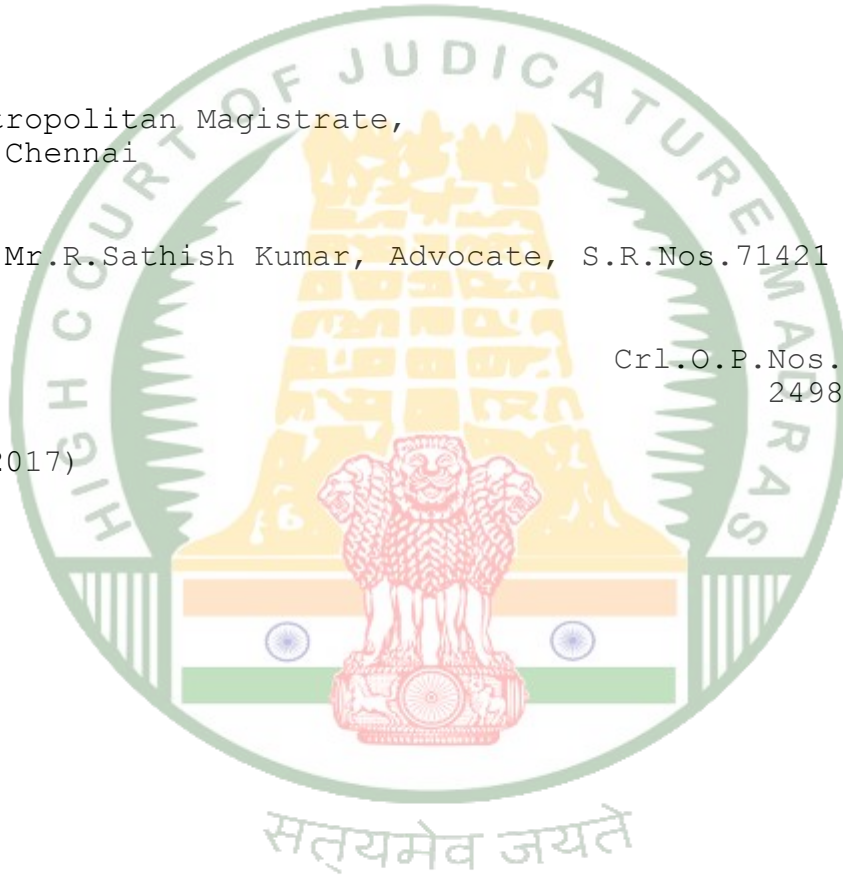
To

The IX Metropolitan Magistrate,
Saidapet, Chennai

+2cc's to Mr.R.Sathish Kumar, Advocate, S.R.Nos.71421 & 71420

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24980 of 2016

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