

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2017

CORAM

THE HONOURABLE MR. JUSTICE M.SUNDAR

Cr1.O.P.No.21593 of 2011

& M.P.Nos. 1 & 2 of 2011

1.K.Ramu
2.Tmt.R.Latha

... Petitioners/Accused 1 & 2

Vs

S.N.Soodamani

.. Respondent/Complainant

Criminal Original Petition has been filed under Section 482 Cr.P.C. to call for the records pertaining to the case in S.T.C.No.3894 of 2006 pending on the file of the Judicial Magistrate-II, Tirupur and to quash the same.

For Petitioners: Mr.P.Anbarasan
For Respondent : Mr.N.E.A.Dinesh

ORDER

The matter pertains to a complaint lodged inter alia under Section 138 of the Negotiable Instruments Act [hereinafter referred as 'NI Act' for brevity].

2. The sole respondent before this Court is the complainant before the Judicial Magistrate. The complaint has been filed arraying husband and wife as A1 and A2 respectively.

3. It is the case of the complainant that wife/A2 borrowed a lakh of rupees for the purpose of her husband's business and the husband thereafter, issued a cheque, which was dishonoured, owing to which a complaint inter-alia under Section 138 of the Negotiable Instruments Act has been filed against the spouses and this petition is to quash the said complaint.

4. It is also submitted at the Bar that a promissory note has been executed by the wife and a suit for recovery of money has been filed.

5. Be that as it may, even while issuing notice on 23.09.2011, this Court issued notice only at the behest of the second petitioner. Learned counsel for both the petitioners have filed a memo to that effect.

6. Therefore, it is clear that the second petitioner before this Court is not a signatory to the cheque and has nothing to do with the case under the Negotiable Instruments Act. It is alleged that there is a signature of the second petitioner in a promissory note, for which, a suit has admittedly been launched.

7. Therefore, this Court is of the view that the complaint shall proceed against the first petitioner herein alone, who is the first accused before the Trial Court to the exclusion of the second petitioner herein, who is A2 before the Magistrate Court.

8. Under the above circumstances, the following order is passed:

[i] The complaint S.T.C.No.3894 of 2006 on the file of the learned Judicial Magistrate-II, Tiruppur, is quashed as against second accused Tmt.R.Latha alone.

[ii] Otherwise, the complaint in S.T.C.No.3894 of 2006 on the file of the learned Judicial Magistrate-II, Tiruppur will proceed against the first accused Thiru K.Ramu.

[iii] Considering the fact that this case is of the year 2006 and it is now more than a decade, learned Judicial Magistrate-II, Tiruppur is directed to proceed with the matter on day-to-day basis, as expeditiously as possible and dispose of the matter within six months.

[iv] Though obvious, the Judicial Magistrate will proceed with the trial uninfluenced and untrammelled by any observation made in this order by this Court.

9. Criminal Original Petition is disposed of on above terms. No costs. Connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

smi

To

1. The Judicial Magistrate-II, Tirupur.
2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Anbarasan, Advocate, S.R.No.15733

+1cc to Mr.Nicholas, Advocate, S.R.No.16061

Crl.O.P.No.21593 of 2011

VGII(CO)
RS(28/03/2017)



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