

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.07.2017

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

RESERVED ON :12.07.2017

PRONOUNCED ON :14.07.2017

CrI.OP No.19982 of 2014

and

M.P.No.1 of 2014

Srividhya

.. Petitioner

Vs

M/s.Udavat Agro Foods,
Partnership Firm
Represented by its Manager
A.Sivasami

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.290 of 2014 on the file of Fast Track Court (Magisterial Level)No.2, Coimbatore and quash the same in so far as it relates to the petitioner herein.

For Petitioner :Mr.T.Munirathinam Naidu

For Respondent :Mr.A.Shamsudeen Raja

ORDER

This Criminal Original Petition has been filed, to call for the records in C.C.No.290 of 2014 on the file of Fast Track Court (Magisterial Level)No.2, Coimbatore and quash the same.

2. The short facts of this case is that the second accused in C.C.No.290 of 2014, Fast Track Court (Magisterial Level), Coimbatore is the petitioner herein. The respondent herein filed a complaint under Section 138,141 and 142 of Negotiable Instrument Act, alleging that for supply of goods by him to the first accused firm, wherein, the second accused who is the proprietor of the first accused firm Proprietrix concern has liable to pay the amount for which, the third accused who is the husband of the second accused has issued a cheque which was bounced and hence, after following the procedure, the complaint has been filed.

3. When the matter was taken up, the summons are issued. The second accused viz., Vidhya,W/o.V.Varadharaj, the proprietor of the first accused firm contended that the cheque (which is alleged to have dishonored) was issued by the third respondent, her husband in his individual capacity. Therefore, she is not liable to be prosecuted and hence, seek to quash the proceedings in respect of her.

4. The learned counsel for the petitioner has submitted that the cheque in dispute was issued by the third accused/V.Varadharaj who is the husband of the Revision Petitioner Vidhya in his personal capacity. Therefore, she cannot be made liable to stand trial.

5. The learned counsel for the respondent is not in a position to dispute the above factual position. However, he submitted that the complainant M/s.Udavat Agro Foods who is a manufacturer of "VEGAM BRAND" Maida, Sooji, Atta and Bran and leading Agro food product suppliers

in and around Coimbatore and having valuable customers and for supply of the goods to the first accused as per the calculation mentioned in the complaint. The third accused has issued the cheque which was bounced leading to the filing of the above calender case.

6. The learned counsel for the respondent has stated that originally, the case was on the file of Judicial Magistrate No.VI,Coimbatore in C.C.No.2 of 2014 for the alleged offence under Section 138 of Negotiable Instrument Act for the dishonoured of cheque given by the third respondent before the trial Court. Subsequently, the case has been transferred to Judicial Magistrate, Udumalpet and re-transferred as C.C.No.87 of 2015 and thereafter, after the amendment of the Negotiable Instrument Act, the same was re-transferred to Fast Track Court, Coimbatore and again re-transferred as C.C.No.354 of 2015, the above said fact was not disputed by the learned counsel for the petitioner.

7.It is trite in law that the person who was issued the cheque in a personal capacity alone can be proceeded against in the event of cheque being dishonoured. In the instant case, the cheque in question was issued by the third respondent/accused and hence, proceeding against the second accused cannot be entertained and hence as against the second accused/revision petitioner, the proceedings have to be quashed.

8. Accordingly, this Criminal Original Petition is allowed to the limited extent that proceedings in C.C.No.290 of 2014, Fast Track Court, Coimbatore which was now re-transferred as C.C.No.354 of 2015 as stated by the learned counsel for the respondent is quashed only to the extent of the second accused alone. Further, it is a specific case of the complainant that he has supplied material goods and for the liability of the respondents 1 and 2. The third accused has issued a cheque however, the merit of the said contention has to be gone to by the trial Court and hence, this Court is adopting self-impose restrictions upon itself and not expressing anything except to say that it is open to the trial Court to deal with the issue. It is also open to the complainant to agitate any of its rights in the manner known to law. As case is of the year 2014 and the trial Court is hereby directed to dispose the case as expeditiously as possible.

9. With the above observations, this Criminal Original Petition is allowed to the extent indicated above. Consequently, connected Miscellaneous Petition is closed.

14.07.2017

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To

1. The Fast Track Court (Magisterial Level) No.2, Coimbatore
2. The Public Prosecutor,
High Court, Madras.

RMT.TEEKAA RAMAN,J.,
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Judgment in
Crl.OP No.19982 of 2014 and
M.P.No.1 of 2014

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