



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASHCrl.O.P.(MD) No.101 of 2017

1.B.V.Sanjay Reddy

2.Sagunthala Amma

... Petitioners/Accused Nos.1&2

-vs-

N.Madasamy

.. Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records relating to STC No.985 of 2015 pending on the file of the learned Judicial Magistrate, Srivaikundam and to quash the said proceedings as against the petitioners herein.

For Petitioners : Mr.A.P.Muthupandian

For Respondent : No appearance

O R D E R

This petition has been filed to quash the case in STC No.985 of 2015 pending on the file of the learned Judicial Magistrate, Srivaikundam.

2.Madasamy/respondent herein has launched a prosecution in STC No.985/2015 before the Judicial Magistrate, Srivaikundam, against Sanjai Reddy (A1) and Sakunthala (A2), the petitioners herein for an offence under Section 138 of the Negotiable Instruments Act. Challenging which, this quash application has been filed by A1 and A2.

3. It is the case of Madasamy (Complainant) that the accused had borrowed Rs.2,50,000/- on 28.10.2012 and in discharge of the said liability, they have issued a cheque dated 28.10.2012, for Rs.2,50,000/-, which when presented was dishonoured for insufficient funds. After issuing the statutory notice, when the accused did not repay the amount, the complainant has launched the aforesaid prosecution.

4. The learned counsel for the petitioners submitted that Sakunthala (A2) had nothing to do with Sun Print Pack Solutions Pvt. Limited and that she has been falsely implicated. He has also submitted that Sun Print Pack Solution Private Ltd., has not been made as accused and therefore, the prosecution is vitiated.



5. This Court gave its anxious consideration to the submissions made by the learned counsel for the petitioners.

6. On a perusal of the impugned cheque, it is seen that the same has been signed by Sanjai Reddy and Sakunthala as authorised signatory of Sun Print Pack Solutions Private Limited. Therefore, Sakunthala cannot be absolved of criminal liability, since she has signed the impugned cheque.

7. In case, where an accused is being implicated on the strength of 141 of the Negotiable Instruments Act, the Company should be made as accused. In this case, the complainant has made only the signatories of the cheque, namely, Sanjai Reddy and Sakunthala as accused. They are not made accused on the strength of Section 141 of the Negotiable Instruments Act.

8. In the result, this petition is devoid of merits and accordingly, dismissed. However, since Sakunthala is an age old lady, she is directed to appear before the trial Court for collecting the final report and other papers under Section 207 Cr.P.C., for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioner files an application under Section 317 Cr.P.C., undertaking that she will not dispute her identity and that her counsel will cross-examine the prosecution witnesses in her absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon her presence.

9. The 2nd petitioner/A2 is further directed to furnish a bond under Section 88 Cr.P.C. with two sureties for Rs.10,000/- (Rupees Ten Thousand only) each to the satisfaction of the learned Judicial Magistrate, Srivaikundam. Consequently, all other connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar

To:

1.The Judicial Magistrate, Srivaikundam.

2.-do-Thro' The chief Judicial Magistrate,
Tuticorin.

RR

JS/MR/24.03.2017/2P-3C