



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.10618 of 2017

and

CRL.M.P(MD).Nos.7283 & 7284 of 2017

G.Sheela

... Petitioner / Accused

-Vs-

R.Rajagopal

... Respondent / Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for records in C.C.No.64 of 2017 pending on the file of the learned Judicial Magistrate No.1, Dindigul, and to quash the same as against this petitioner.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.K.Anbarasan,
Government Advocate(Crl.Side)

O R D E R

This Criminal Original petition is filed for quashing the criminal case in C.C.No.64 of 2017 pending on the file of the learned Judicial Magistrate No.1, Dindigul, as against the petitioner.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal side) appearing for the respondents.

3. The respondent is the defacto complainant in C.C.No.64 of 2017 on the file of the learned Judicial Magistrate No.1, Dindigul, which was entertained for the offence under Section 138 of Negotiable Instruments Act.

4. The case of the petitioner is that she has not involved in any offence, as she is only the Director of the Company which has given a cheque to the defacto complainant.



5. The learned counsel for the petitioner referred to the complaint and pointed out that no prima facie is made out as against the petitioner. He also relied upon a Judgment of the Hon'ble Supreme Court in the case of **S.M.S. Pharmaceuticals Ltd., V. Neeta Bhalla and another, reported in 2005(4) Crimes 34(SC)**, wherein the Hon'ble Supreme Court has held that unless the complaint disclose the necessary facts to bring the case under Section 141 of the Negotiable Instruments Act, 1881, the person/accused cannot be proceeded against.

6. Unfortunately, for the petitioner in this case, the complaint specifically refers to the petitioner and the petitioner is also shown as a person in-charge of the day to day affairs of the Company and therefore, this Court is of the view that prima facie, the petitioner also can be brought in as per the provisions of Section 141 of the Act. Be that as it may, the petitioner filed the quash petition at the time of trial, this Court is not inclined to entertain this petition. This Court prima facie satisfied that in accordance with the provisions of Section 141 of the Act, as offence is made out in the complaint as against the petitioner. Hence, the Criminal Original petition is dismissed.

7. The learned counsel for the petitioner however made a submission that since the petitioner is residing in Chennai, her personal appearance may be dispensed with.

8. Having regard to the allegations made in this case, this Court dispense with the personal appearance of the petitioner, unless or otherwise it is specifically required by an order of the Court. However, without reference to any of the observations and findings of this Court in this proceedings, the learned Judicial Magistrate No.1, Dindigul, shall consider the objections and pass appropriate orders purely on merits, on the basis of the evidence adduced at the time of hearing. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Co)

/True Copy/

Sub Assistant Registrar

To

1. The learned Judicial Magistrate, No.1,
Dindigul.



2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.S.C.Herold singh , Advocate in SR.No. 72136

pmu

AE/KK/SAR4/30.08.2017/3P/4C

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