



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:12.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.12012 of 2017

and

CrI.MP(MD)Nos.8276 and 8277 of 2017

M.Sathya Bama

: Petitioner

-Vs-

T.Vasanthakumari

: Respondent

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to STC No.378 of 2017 on the file of the learned Judicial Magistrate, FTC No.II, Madurai and quash the same.

For Petitioner : Mr.S.Vellaichamy

O R D E R

This petition is filed to quash the proceedings in STC.No.378 of 2017, on the file of the learned Judicial Magistrate, FTC No.II, Madurai.

2.The petitioner is the accused in criminal case registered for the offences under Sections 138 and 142 of Negotiable Instruments Act. The respondent in her complaint stated that the petitioner requested the respondent to advance a loan of Rs.5 lakhs for improving her husband's business and for the educational expenses of her children. It is further stated that on 02.10.2016, a sum of Rs. 5 lakhs was paid to the petitioner. In that connection, a cheque dated 02.10.2016 for a sum of Rs. 5 Lakh was drawn by the petitioner in favour of the respondent. It is further stated that the cheque was dishonoured and after that there was a statutory notice to the respondent under section 138 and 142 of Negotiable Instruments Act.

3.The contention of the learned counsel for the petitioner is that the cheque is not a bonofide one. It is not supported by any consideration. The learned counsel for the petitioner mainly submitted that the bank account was closed long back and that therefore, the complaint is not maintainable. The drawal of the cheque by the petitioner in this case is not disputed. There is a presumption under Section 118 of Negotiable Instruments Act for consideration.



4. In such circumstances, going by the complaint, this Court is fully convinced that prima facie the offence under Section 138 of Negotiable Instruments Act is made out. The case of the petitioner is only the probabilities. At this stage this Court cannot decide as to the truth or veracity of the allegations made in the complaint.

5. Having regard to the settled position and scope of section 482 of Cr.P.C, this Court is not inclined to entertain this petition. Hence, this Criminal Original Petition is dismissed. However, the learned counsel for the petitioner states that the petitioner is a women and that her appearance before the trial Court may be dispensed with. Considering the facts and circumstance of the case, the appearance of the petitioner before the trial Court is dispensed with, unless and until, the petitioner's presence is specifically required by an order of Court. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar.

To
The Judicial Magistrate, FTC No.II,
Madurai.

+1CC to Mr.S.Vellaichamy, Advocate, SR.No.78089

CRL.O.P. (MD) No.12012 of 2017
12.09.2017

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