

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.8483 of 2011
and
M.P.No.1 of 2011

Premalatha

...Petitioner/A2

Vs.

G.V. Chenchaiyah

...Respondent/Complainant

Prayer:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the entire records and quash the further proceedings in C.C.No.2919 of 2010 on the file of the X Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : No Appearance

For Respondent : Mr.R.Krishnakumar

O R D E R

The learned counsel for the respondent is present. None appeared on behalf of the petitioner, despite the petitioner's name printed in the cause list. The petitioner has filed the Criminal Original Petition seeking to quash the further proceedings in C.C.No.2919 of 2010 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai, filed by the respondent/complainant for the offence under Section 138 of the Negotiable Instruments Act (hereinafter referred to as NI Act), which is pending for trial.

2. The petitioner is A2 in C.C.No.2919 of 2010 in a private complaint. There was no representation for the petitioner/A2 on the previous occasion too and the case was posted "for dismissal" on 20.07.2018. Today, when the matter is called up in the morning twice, there is no representation for the petitioner. Hence, on perusal of the records, orders are passed on merits in this matter.

3. The case of the petitioner/A2 is that the petitioner's husband one Mr.C.Muralidharan, who is A1, is an employee of Integral Coach Factory, Chennai-99. A1 made friendship with the respondent/complainant. The

respondent/complainant received considerable amount as retirement benefits from the ICF. Knowing this, A1 demanded for a hand loan of Rs.1,13,000/- for marriage proposal of his son and promised that the loan amount would be returned with 2% interest within six months.

4. The petitioner/A2 is a business lady looking after a shop in Villivakkam. A1 visited the house of the respondent/complainant several times along with A2, with regard to the repayment of the borrowed money. The petitioner and her husband consulted each other and came to a conclusion of issuing cheque to the respondent/complainant and on the advise of the petitioner's husband, the petitioner has issued two cheques of Rs.45,000/- drawn on Vijaya Bank, Kolathur. Thereafter, the respondent/complainant deposited the cheques bearing Nos.081932 and 081933 in Baroda Bank Ltd., Mugappair for encashment as requested by A1 and the same were returned with the banker's note "amount exceed arrangement". Thereafter, A1 met the respondent/complainant on 08.04.2009 and gave him cheque of one Baskaran for an amount of Rs.23,000/- by way of cheque towards the balance loan amount and the cheque bearing No.104306, dated 11.04.2009 got dishonoured with the banker's note "insufficient funds". Thereafter, the respondent/complainant had filed a complaint under Section 138 of the Negotiable Instruments Act.

5. The contention of the petitioner/A2 is that no statutory notice was served on the petitioner and the statutory notice was issued only to her husband and she is not aware of the same and further the amount covered in the two cheques were repaid and the liabilities are discharged due to misunderstanding between the petitioner's husband and the respondent/complainant. However, the petitioner has been falsely implicated in the above case and prayed for quashing the complaint.

6. On going through the averments and on a perusal of the records, this Court feels that there are no grounds made out for quashing the complaint. In view of the above submissions and facts, the quash petition is dismissed. The trial Court is directed to complete the trial as expeditiously as possible, within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

msm

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The X Metropolitan Magistrate,
Egmore, Chennai.
2. The Public Prosecutor,
High Court, Madras.

KR/2/11/18

CrI.O.P.No.8483 of 2011
and
M.P.No.1 of 2011



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