

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.10231 of 2010
and
M.P.NO.1 of 2010

D.Chitra ... Petitioner

Vs.

M.S.Kathiresan Respondent

PRAYER: The Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records and quash the proceedings in C.C.No.5106 of 2008 on the file of the XV Metropolitan Magistrate, G.T.Chennai.

For Petitioner : No appearance

For Respondent : No appearance

O R D E R

The petitioner herein has filed this petition to quash the private complaint filed by the respondent which is pending as C.C.No. 5106 of 2008 on the file of the XV Metropolitan Magistrate, George Town, Chennai under Section 138 of Negotiable Instruments Act, for a cheque amount of Rs.2,00,000/-.

2. The petitioner submits that she gave three cheques to her brother one Mr.Ganesh Babu as security. The petitioner's brother received a hand loan from third party J.M.R.Finance, Royapuram, Chennai. For the repayment of his loan, the above cheques were issued to him as security. The cheques are not filled up and the date also not filled in. The petitioner does not know about the respondent/compliant. The petitioner has not taken any pie from the respondent/complaint, the person who gave loan to her brother, given the above cheques to some third party, filled the same and instituted this case. Further, the petitioner's brother repaid the entire loan amount to the above financier and the petitioner got endorsement from the financier. Hence, the petitioner has no liability in the said transactions and suppressing the above facts, the respondent had filed a false complaint against the petitioner.

3. Per contra, on perusal of the complaint, it is seen that the petitioner had borrowed a sum of Rs.2,00,000/- (Rupees Two lakhs only) from the respondent as hand loan on 06.06.2008 for her urgent needs promising to repay the same within a short period. The petitioner in order to repay the said loan amount, the petitioner had issued a cheque in favour of the respondent on 06.06.2008 for Rs.2,00,000/- bearing Cheque No.992054 drawn on State Bank of India, Arcot Road, Chennai. On the instructions of the petitioner, the respondent presented the cheque for collection on the same day through his Bank ie., Karnataka Bank Ltd., Ayanavaram, Chennai. But, the said cheque was dishonoured and returned on 07.06.2018 with an endorsement as " Funds Insufficient" . Upon dishonouring the cheque, he issued a statutory legal notice to the petitioner on 04.07.2018, demanding to pay the said dishonoured cheque amount of Rs.2,00,000/- . The petitioner had received the said notice on 08.07.2008. Thereafter, the petitioner has not made any payment or sent any reply . Hence, complying with the statutory provisions, the case has been instituted. On going through these documents, it is found that the respondent had complied with all the conditions and the complaint does not lack any deficiency to be interfered with. The petitioner had not made any grounds for consideration with tangible materials.

4. In the result, the above criminal original petition filed by the petitioner is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

vv

To

1. The XV Metropolitan Magistrate,
G.T.Chennai.

2. The Public Prosecutor,
High Court, Chennai.

Cr1.O.P.No.10231 of 2010

KS (CO)
EU(10/08/2018)