

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.10581 of 2017
and
CRL.M.P.Nos.6978, 6979 & 9254 of 2017

Mrs. Latha NarayanaswamyPetitioner

Vs.

G.Aravind RajRespondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the summons issued in STC No.1333 of 2017 on the file of the learned Judicial Magistrate No.III, Coimbatore and quash the same insofar as the petitioner is concerned.

For Petitioner : M/s.Mathuvanthi Mathavan

Respondent : Mr.Sivakumar

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in STC.No.1333 of 2017 on the file of the learned Judicial Magistrate No.III, Coimbatore and quash the same in so far as the petitioner is concerned.

2. The petitioner has been added A3 in the complaint filed by the respondent under Section 138 of the Negotiable Instruments Act. A1 is the company and A2 is the Managing Director and A3 is the Director of the first accused - Company, who is the sister of A2.

3. This quash petition has been filed primarily on the ground that the complaint does not satisfy the requirement of Section 141 of the Negotiable Instruments Act. The learned counsel for the petitioner would submit that this petitioner has been added as accused only on the ground that she is the Director of the Company. The learned counsel for the petitioner would submit that this petitioner is not involved in day-to-day affairs of the company and therefore, she should not have been made an accused in this case.

4. The learned counsel for the respondent would submit that sufficient allegations have been made in the complaint filed by the respondent. For this purpose, the learned counsel for the respondent brought to the notice of this Court paragraphs 3 and 4 of the complaint. The learned counsel also invited the attention of this Court to the statutory notice issued by the respondent and the reply notice given by the accused

persons.

5. On going through the allegations made in the complaint, this Court is of the considered view that the requirements of Section 141 of the Negotiable Instrument Act, has been satisfied. It is open to the petitioner to establish before the Court below that she is not involved in day-to-day affairs of the Company. The grounds raised by the petitioner shall be considered by the Court below on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings at this stage.

6. The learned counsel for the petitioner would submit that the presence of the petitioner may be dispensed with before the Court below. The learned counsel for the petitioner would submit that the petitioner is pregnant and she will be delivering a baby in another 3 or 4 months and therefore, she will not be able to be present before the Court below.

7. In the facts and circumstances of the case, the presence of the petitioner is dispensed with and she shall be represented by a counsel. The learned counsel for the petitioner submitted that the petitioner will

answer the questions put to her under Section 313 of Cr.P.C. without making her physical presence before the Court below due to the reason stated supra. The learned counsel also submitted that the petitioner will file an affidavit before the Court below by stating the real difficulty for the petitioner to be physically present in the Court for giving such answer. The petitioner shall also give an assurance that no prejudice will be caused to her in any manner by dispensing with her personal presence during such questioning. The petitioner shall also undertake in the affidavit that she will not raise any grievance on that score at any stage of the case. On such affidavit being filed, the Court below shall supply the questionnaire to the advocate representing the petitioner and fix a time within which the same will be returned duly answered by the accused together with a properly authenticated affidavit that those answers were given by the accused herself. The Court below shall keep in mind the guidelines given by the judgment of the Hon'ble Supreme Court in **KEYA MUKERJEE V. MAGMA LEASING LIMITED AND ANOTHER** reported in CDJ 2008 SC 678. The counsel representing the petitioner shall cross-examine the witnesses on the same day they are examined in chief and she shall not question the identity of any of the witnesses. This Criminal Original Petition is disposed of with a direction to

the Court below to complete the proceedings in S.T.C.No.1333 of 2017 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

17.12.2018

speaking/non-speaking order

Index : Yes / No

Internet : Yes / No

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To

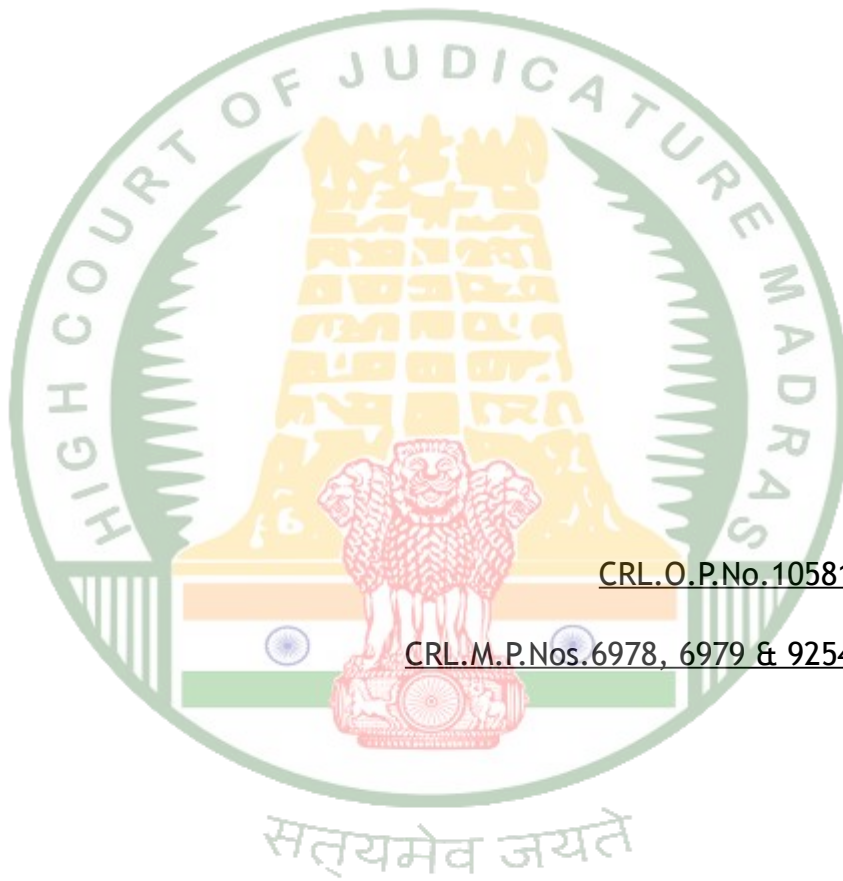
1. The Judicial Magistrate No.III,
Coimbatore

2.The Public Prosecutor,
High Court, Madras.

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N.ANAND VENKATESH, J.,

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