

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.11.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.25717 of 2018
and
CRL.M.P.No.14703 & 14706 of 2018

B.Amirthavalli ..Petitioner/Accused No.3

Vs.

M/s.Folium Trading Private Limited,
Rep. by its Director/Authorized Signatory Manjoorali,
Regus Shyamala Gardens,
Shayamalpet, No.136, Arcot Road,
Saligramam, Chennai - 600 093.

..Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records and quash the complaint in S.T.C.No.2181 of 2018, filed against the petitioner on the file of the Fast Track Court-III, Saidapet, Chennai.

For Petitioner : Mr.R.Venkatesh

For Respondent : Mrs.M.Prabavathi, APP

O R D E R

For the sake of convenience, the parties will be referred to as complainant and accused. It is the case of the complainant that they are into paper business and during the course of their business, M/s.Creative Papers, a partnership firm, for purchase of papers, towards which, they issued the impugned cheque for Rs.8,04,904/-, which when presented was dishonoured. After issuing Statutory Notice, the present complaint has been filed under Section 138 of Negotiable Instruments Act, for quashing which, B.Amirthavalli (A3) is before this Court.

2.Heard Mr.R.Venkatesh, learned counsel appearing for A3 submitted that A3 has resigned her partnership in the firm as early as 30.06.2015 and that, she was not a Partner, when the impugned Cheque dated 05.12.2017 was issued.

3.In support of this contention, Mr.R.Venkatesh, learned counsel placed reliance upon the Release Deed dated 30.06.2015.

4. In the opinion of this Court, this is a disputed question of fact which cannot be gone into in a quash petition. Hence, this petition is closed with liberty to the petitioner to plead this before the trial Court during trial. However, the presence of the petitioner before the trial Court is dispensed with on the following conditions:

- i. The petitioner shall appear before the trial Court and execute a bond for Rs.10,000/- under Section 88 Cr.P.C.
- ii. The petitioner shall appear before the trial Court for framing charges, for questioning under Section 313 Cr.P.C. and on the date of judgment.
- iii. For other hearings, if the petitioner files an application under Section 317 Cr.P.C., the same shall be liberally construed. If the accused adopts any dilatory tactics, the trial Court shall insist upon the presence of the accused.
- iv. If the accused absconds, a fresh FIR can be registered against him under Section 229-A of IPC.

Consequently, connected Miscellaneous petition is closed.

dua/gya

Sd/-

Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

The Fast Track Court-III, Saidapet, Chennai.

+ 1 CC TO MR.R.VENKATESH, ADVOCATE SR 75939

KR/19/11/18

CRL.OP.No.25717 of 2018

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