



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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CrI.O.P(MD).No.5794 of 2018 and
CrI.M.P(MD).Nos.2781 and 2782 of 2018

J. Jasmin ... Petitioner/Accused
Vs.

M. Jabar Sathick ... Respondent/Complainant

Prayer: This petition is filed under Section 482 Cr.P.C to call for the records in respect of the case in S.T.C.No.839 of 2016 on the file of the Judicial Magistrate, Thirumayam, Pudukottai District and quash the same.

For Petitioner : Mr.M.Jothibas

O R D E R

The petitioner have filed this petition seeking to quash of S.T.C.No.839 of 2016 on the file of the Judicial Magistrate, Thirumayam, Pudukottai District.

2. The petitioner is facing trial in S.T.C.No.839 of 2016, on the file of the Judicial Magistrate, Thirumayam, Pudukottai District, for the offence under Section 138 of Negotiable Instruments Act, 1881. The only ground on which the petitioner has filed this petition is that the Magistrate did not undertake the mandatory enquiry under Section 202(1) Cr.P.C., The petitioner has not produced any document to substantiate his contention. Therefore, it is not possible to test the correctness of the said contention. Hence, this Criminal Original Petition is dismissed.

3. In order to render substantial justice, this Court called upon the petitioner's counsel to state, if there is any other legal ground for quashing the impugned complaint. It is submitted by the learned counsel appearing for the petitioner that the petitioner's husband was carrying on business and the cheque in question was only given as security. If it is so, it is a matter for trial and it is not a matter for quashing the complaint. Accordingly, this Criminal Original Petition is dismissed.

4. Since the petitioner is a Muslim Woman and home maker, and also residing in Rajapalayam and it is submitted that it would be very difficult for her to appear before the learned Judicial Magistrate, Thirumayam, Pudukottai District, this Court is of the view that the following relief can be given to the petitioner.



(a) The petitioner shall be asked to appear to answer the charges, at the time of examination under Section 313 Cr.P.C and at the time of pronouncement of Judgment.

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(b) Except these three occasions, on all other occasions, the personal appearance of the petitioner shall not be insisted upon by the Trial Court. However, the petitioner must be represented through her counsel.

(c) The petitioner is entitled to raise all her contentions, including the contentions raised in this Criminal Original Petition at the time of trial.

5. With the above relief regarding personal appearance, this Criminal Original Petition is disposed of. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate, Thirumayam, Pudukottai District.

+1cc to M/S.G.M.Law Office, Advocate SR.No. 61363

Cr1.O.P(MD).No.5794 of 2018 and
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trp

JM/KKR/SAR 2/17.05.2018/2P/3C