



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P. [MD].No.14731 of 2016

and

Cr1.M.P. (MD)Nos.6905 and 6906 of 2016

B.Padmavathi

...Petitioner / Accused No.2

Vs.

Sri Priyanka Cotton Mills,
Represented by its Managing Partner,
P.Upendra Rao
S/o.Vengaiah, Etukuru Road,
Guntur, Guntur District.

... Respondent / Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records pertaining to the private complaint in S.T.C.No.138 of 2014 pending before the learned Judicial Magistrate, Fast Track Court (ML), Theni, dated 01.06.2007 filed under Section 138 of Negotiable Instrument Act and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy

ORDER

This Criminal Original Petition has been filed, seeking to quash the proceedings in S.T.C.No.138 of 2014 pending before the learned Judicial Magistrate, Fast Track Court (ML), Theni, dated 01.06.2007 filed under Section 138 of Negotiable Instrument Act.

2.The learned counsel appearing for the petitioner was directed to take private notice to the respondent and the learned counsel has taken notice to the respondent on 23.10.2018. This notice has also been served on the respondent.

3.The learned counsel appearing for the petitioner submitted that the petitioner has been arrayed as the second accused in the complaint initiated by the respondent for an offence under Section 138 of Negotiable Instrument Act.

4.The learned counsel brought to the notice of this Court the allegations that have been made in the complaint. In the complaint, it is seen that the first accused is the husband of the second accused and the first accused is a Proprietor of Sri Priyanka Cotton Mills. He has issued a cheque in favour of the respondent.

5.The learned counsel appearing for the petitioner also brought to the notice of this Court that the cheque has been signed only by the first accused. Therefore, the learned counsel would submit that



this case is squarely covered by the judgment of the Hon'ble Supreme Court of India, in the case of **Aparna A Shah Vs. Sheth Developers Private Limited** reported in **2013 (8) SCC 71**.

6. The Hon'ble Supreme Court of India in the above judgment has categorically held that a joint account holder cannot be prosecuted unless the cheque has been signed by each and every person, who is a joint account holder.

7. The judgment of the Hon'ble Supreme Court of India will squarely apply to the facts of the present case. In this case, the petitioner has been made as an accused only on the ground that she is the wife of the first accused. Admittedly, the petitioner has not signed in the cheque.

8. In view of the above, the proceedings in S.T.C.No.138 of 2014 pending before the learned Judicial Magistrate, Fast Track Court (ML), Theni, is hereby quashed insofar as the petitioner is concerned.

9. In the result, this Criminal Original Petition is allowed. The Court below is directed to complete the proceedings insofar as the other accused persons are concerned, within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Judicial Magistrate,
Fast Track Court (ML), Theni.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.T.Lajapathi Roy, Advocate Sr.No.93790

MYR

VB/SV/SAR1/13.12.2018/2P/4C

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