



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

Crl.O.P.[MD].No.16240 of 2016

and

Crl.M.P.(MD)Nos.7907 and 7908 of 2016

C.Prema

: Petitioner

Vs.

K.Ashok Kumar

: Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in connection with the impugned private complaint in C.C.No.340 of 2015 pending trial on the file of the learned Judicial Magistrate No.II, Karur and quash the same against the petitioner alone.

For Petitioner

: Ms. Radhi Sathish

For Respondent

: Mr. V.Balaji

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.340 of 2015 pending on the file of the learned Judicial Magistrate No.II, Karur.

2.The petitioner has been arrayed as third accused in 138 complaint filed by the respondent. The learned counsel for the petitioner would submit that the cheque has been signed on behalf of the partner ship firm by the second accused and this petitioner has nothing to do with the transaction and she has been arrayed as an accused by showing her as Managing Partner. According to the learned counsel for the petitioner, the second accused had intentionally roped in this petitioner by showing her as Managing Partner and as a result of the same, on 12.11.2014, the petitioner has resigned from the partner ship firm.

3.The learned counsel for the respondent would further submit that in view of the resignation of the petitioner, she should not be made to face the criminal proceedings before the court below.

4.The learned counsel for the respondent would submit that the fact as to whether the petitioner was really a managing partner or her name has been dragged in without any involvement of the petitioner in the day to day affairs of the partner ship firm, has to be established before the court below in the course of trial.

5.The learned counsel for the respondent would further submit that the court should not go into such factual issues in exercise of its jurisdiction under Section 482 Criminal Procedure Code.



6.This Court has carefully considered the submissions made on either side.

7.The ground that has been raised by the learned counsel for the petitioner, squarely falls within the realm of "appreciation of evidence". This Court cannot conduct such an exercise in its jurisdiction under Section 482 of Cr.P.C. It is left open to the petitioner to raise all the grounds before the court below and the court below shall consider the same on its own merits and in accordance with law.

8.The learned counsel for the petitioner would submit that the presence of the petitioner shall be dispensed with pending disposal of the complaint.

9.Accepting the said submissions, the presence of the petitioner shall be dispensed with before the court below and the petitioner shall be represented by a counsel. The petitioner shall present before the court at the time of questioning under Section 313 of Cr.P.C and at the time of passing of the judgment. The learned counsel for the petitioner shall examine the witnesses on the same day, they are examined in Chief and the petitioner shall not dispute the identify of any witness.

10.In the result, this Criminal Original Petition is dismissed. However, there shall be a direction to the court below to complete the proceedings within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Judicial Magistrate No.II, Karur.

2. The Section Officer, Criminal Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.N.Sathish Babu, Advocate Sr.No.91280

+1cc to Mr.V.Balaji, Advocate Sr.No.91356

DAS

VB/SKN/SAR1/27.11.2018/2P/6C

<https://hcservices.ecourts.gov.in/hcservices/>

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