



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)No.14554 of 2013 and
M.P.(MD)No.1 of 2013

Chitra Devi

... Petitioner/Accused

Vs.

T.R.Narayanasamy

... Respondent/Complainant

Prayer: Petition is filed under Section 482 of Cr.P.C., to call for records relating to S.T.C.No.741 of 2013 pending on the file of the learned Judicial Magistrate No.IV, Tiruchirappalli and to quash the said proceedings as against the petitioner herein.

For Petitioner : Mr.S.Deenadhayalan
For Respondent : Mr.R.Mohanasundaram

ORDER

The petitioner has filed this Criminal Original petition for quashing the proceedings in S.T.C.No.741 of 2013 pending on the file of the learned Judicial Magistrate No.IV, Tiruchirappalli, as against the petitioner herein.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. Learned counsel for the petitioner submits that new number has been assigned to the impugned complaint. Thus, it now bears S.T.C.No.223 of 2015.

4. The case of the respondent is that the petitioner availed loan from him and that towards discharge of the said liability, the impugned cheque bearing No.861083, dated 12.03.2013, drawn on Indian Overseas Bank, Srengam Branch bearing Account No.1810. He presented the cheque for collection and it was returned with an endorsement 'Refer to drawer'. The respondent issued Statutory notice dated 03.04.2013. The same was received by the petitioner, who in her reply, dated 19.04.2013 categorically took the stand that he is not having any account in Indian Overseas Bank, Srengam Branch as stated in the Statutory notice. The petitioner specifically pointed out that the alleged cheque did not belong to her. Since the said categorical stand was taken by the petitioner herein, the complainant before the trial Magistrate to prove that the petitioner did maintain such account.



5. The respondent ought to have examined the concerned Branch Manager, even before the complaint was taken on file. In this case, though no such material was forthcoming, the learned trial Magistrate had mechanically taken the complaint on file. The learned counsel for the respondent/complainant submitted that these aspects are required only during trial and they cannot be grounds for quashing the impugned complaint.

6. There must be a *prima facie* material against the petitioner to face trial in this case. This Court comes to the conclusion that there is no *prima facie* material forthcoming. The petitioner did not keep quiet after receiving the Statutory notice. She issued reply stating that the alleged cheque does not belong to her.

7. This Court called upon the learned counsel for the complainant to get some certificate from the Bank in question indicating the petitioner is having a bank account. Though the matter was adjourned, till date the learned counsel for the respondent is not able to produce such a certificate. On the other hand, the petitioner has enclosed a certificate dated 08.07.2013 issued by the concerned Bank that she is not having any S.B. Account bearing No.1810. Therefore, the respondent had sufficient notice of the materials enclosed in the typed set. The complainant has not refuted the aforesaid certificate enclosed in the typed set of papers (Page No.9), dated 08.07.2013 by the petitioner.

8. For all these reasons, this Court is of the view that continuing the impugned proceedings would be an abuse of legal process. Hence, the impugned proceedings in S.T.C.No.741 of 2013 on the file of the learned Judicial Magistrate No.IV, Tiruchirappalli, stand quashed and this Criminal Original petition stands allowed. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate No.IV,
Tiruchirappalli.

PMU

TE/JC/SAR-3 : 06/06/2018 : 2P/2C

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M.P. (MD) No.1 of 2013
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