

SMT. JUSTICE T.RAJANI

Criminal Petition No.12602 of 2013

ORDER:

This petition is filed seeking to quash the C.C. No.301 of 2012 on the file of the II Additional Judicial Magistrate of I Class, Nellore. The alleged offence is under Section 138 read with 142 of Negotiable Instruments Act, 1881, (for short “the Act”).

Heard the learned counsel for the petitioner, learned Public Prosecutor for the first respondent and the learned counsel for the second respondent and perused the material placed on record.

The only ground on which the counsel rests his argument is that the cheque, which is issued by the petitioner, does not belong to her and it does not pertain to the account maintained by her. A perusal of the cheque itself would show that the cheque belongs to Sri Doraswamy Babu T, who is stated to be the husband of the petitioner. When a doubt was entertained by this Court, with regard to the account being joint account, the learned counsel for the petitioner sought time and produced a copy of the statement of account pertaining to the said account, which shows that it stands in the name of only Mr.Doraswamy Babu T. Hence, going by the wording of Section 138 of the Act, the complaint cannot be sustained as the Section 138 of the Act specifies that the cheque should be drawn by a person on an account maintained by him.

Hence, in view of the above, considering that continuation of further proceedings would only result of abuse of process of law. Therefore, C.C. No.301 of 2012 on the file of the II Additional Judicial Magistrate of I Class, Nellore are quashed.

In the result, this criminal petition is allowed. Consequently, miscellaneous petitions, if any pending, shall stand closed.

JUSTICE T. RAJANI

Date: 26.10.2018
LSK

