

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.11324 of 2016 and
Crl.M.P.No.5802 of 2016 and
Crl.M.P.No.2882 of 2017

K.Anna Saraswati

... Petitioner/A1

-vs-

V.Balasubramanian,
Managing Director,
Ressourzen Solution Services Private Ltd.,
Office at 'Adyar Manere',
No.6/24, 2nd Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020.

... Respondent/
Defacto Component

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the C.C.No.610/2016 on the file of the learned Metropolitan Magistrate No.XXIII, Saidapet, Chennai and quash the same in respect of the Petitioner/A1 alone.

For Petitioner : Mr.A.Rajeshkanna

For Respondent : Mr.A.Devnarendran

ORDER

This petition has been filed challenging the proceedings initiated by the respondent against the petitioner for an offence under Section 138 of the Negotiable Instruments Act. There are totally three accused persons in this case and the petitioner has been ranked as A1.

2.A reading of the complaint shows that the respondent had paid a sum of Rs.5,00,000/- as rental advance to A1 and A2. Subsequently the respondent did not like the premises and therefore he had sought for refund of the advance amount. A2 had issued a cheque in favour of the respondent in his capacity as the Director of A3.

3.The learned counsel for the petitioner submitted that admittedly the signatory in the cheque is that of A2 on behalf

of A3 company and this petitioner has been made an accused only on the ground that she is the sister of A2 and she was also a part of the entire transaction and she had also admitted the liability in the reply notice. The learned counsel submitted that this petitioner ought not to have been made as an accused in the proceedings since only the drawer of the cheque can be made as an accused. The petitioner does not hold any post in the A3 company and therefore the averments made in the complaint do not satisfy the requirements of Section 141 of the Negotiable Instruments Act.

4.The learned counsel for the respondent submitted that this petitioner along with A2 had categorically admitted the liability in the reply notice. The learned counsel further submitted that after admitting the liability A2 had given the cheque in favour of the respondent and now the proceedings are kept pending on the ground that this petitioner should not be added as an accused in the case.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.It is an admitted case that it was A2 who had signed the cheque on behalf of the A3 company. The averments made in the complaint do not satisfy the requirements of Section 141 of the Negotiable Instruments Act and therefore the present petitioner, who is added as A1 should not have been made as an accused in this case. The Court below went wrong in taking cognizance of the complaint as against the petitioner. The proceedings as against the petitioner is an abuse of process of Court and the same requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

7.In the result, the proceedings in C.C.No.610 of 2016 pending on the file of the Metropolitan Magistrate No.XXIII, Saidapet, Chennai is hereby quashed in so far as the petitioner is concerned. The Court below is directed to proceed further with the complaint in so far as A2 and A3 are concerned and complete the proceedings within a period of two months from the date of receipt of the copy of this order.

8.This Criminal Original Petition is disposed of with the above direction. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs

To

The Metropolitan Magistrate No.XXIII,
Saidapet,
Chennai.

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VG II (CO)

RRS (23/07/2019)



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