

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2019

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.OP NO.18841 OF 2013

AND

MP.NOS.1 & 2 OF 2013

K.Padmavathy .. Petitioner

- Vs -

D.Kannan .. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records in pursuant to the complaint given by the respondent, under Section 138 of Negotiable Instruments Act, 1881, pending on the file of the Judicial Magistrate No.III, Erode in STC.No.178 of 2013 and quash the same.

For Petitioner : Mr.T.P.Prabakaran

For Respondent : Service awaited

ORDER

This Criminal Original Petition has been filed to call for the records in STC.No.178 of 2013 pending on the file of the learned Judicial Magistrate-III, Erode and quash the same.

2. The respondent herein filed a private complaint under Section 200 Cr.P.C against the petitioner herein for the offence under Section 138 of the Negotiable Instruments Act before the learned Judicial Magistrate-III, Erode. The learned Magistrate taken cognizance of the complaint on file in STC.No.178 of 2013. During pendency of the said case, the accused therein filed the present petition under Section 482 Cr.P.C to quash the proceedings in STC.No.178 of 2013.

3. The learned counsel for the petitioner mainly contended that when the cheque was presented, it was returned only for the reason "Cheque out of Range". Instead of mentioning the said reason, the cheque was returned for the reason "Insufficient

funds". Therefore, prima facie the complaint is not made out against the petitioner and the same may be quashed.

4. None appeared for the respondent. Heard the learned counsel for the petitioner and also perused the entire materials available on record.

5. On careful perusal of the records, it is found that the respondent filed a complaint under Section 200 Cr.P.C for the offence under Section 138 of Negotiable Instruments Act. The petitioner is none other than the daughter of the respondent. The respondent issued a legal notice dated 14.12.2012 to the petitioner/accused calling upon her to pay the said cheque amount of Rs.4,00,000/- within fifteen days from the date of receipt of the notice. The petitioner/accused has received the notice on 17.12.2012. After receipt of the said notice, the accused sent a reply and subsequently, the respondent/complainant filed a complaint before the learned Magistrate.

6. The fact remains that the petitioner has not filed any proof to show that on the date of presentation of the cheque, the petitioner had sufficient fund in her account. In the absence of any material to prove that the petitioner had sufficient fund on the date of presentation of the cheque, this Court is not inclined to quash the proceedings against the petitioner.

7. Accordingly, this Criminal Original petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

KMI

To

1. The Judicial Magistrate-III, Erode.
2. The Chief Judicial Magistrate, Coimbatore.

+1cc to Mr.T.P.Prabakaran, Advocate, S.R.No.104652

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SSD(CO)
CS/03/02/2020