

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.2601 of 2019
and
Crl.M.P.No.1677 of 2019

Kavitha Reddy

...Petitioner

Vs.

M.R.Bharath
Rep. by his Power of Attorney
K.S.Sudararajan

... Respondent

PRAYER:Criminal Original Petition filed under Section 482 Cr.P.C. to call for the entire records comprised in C.C.No.421 of 2018 pending on the file of learned Judicial Magistrate (FTC) at Alandur, Chennai and quash the same against petitioner / accused-2.

For Petitioner : Mr.Vimal B.Crimson

For Respondent : Mr.Velayutham Pichaiya

ORDER

This Criminal Original Petition has been filed by the petitioner to call for the entire records comprised in C.C.No.421 of 2018 pending on the file of learned Judicial Magistrate (FTC) at Alandur, Chennai and quash the same against petitioner / accused-2. सत्यमेव जयते

2.On a perusal of the documents, this Court finds that the complaint has been filed by the respondent for the offence under Section 138 of Negotiable Instruments Act, 1881 as against the petitioner and another. The petitioner is none other than the wife of the first accused. Even according to the complaint filed by the respondent under Section 200 of Cr.P.C. for the offence under Section 138 of Negotiable Instruments Act, the petitioner and her husband obtained hand loan for a sum of Rs.5 lakhs from the respondent / complainant and to repay the same, the first accused issued two cheques for a sum of Rs.5,00,000/- and Rs.1,35,000/-. The said cheques were issued by the husband of the petitioner namely the first accused in the complaint.

3. Admittedly, the first accused issued the above mentioned cheques on his own personal capacity and there is no firm or company running by the first accused. Therefore, the petitioner i.e. 2nd accused has not signed the cheques issued by the first accused and she is not the signatory of the cheque. Hence, she is not liable to be punished for the offence under Section 138 of Negotiable Instruments Act. The cheques were issued by the first accused to the defacto complainant, accordingly, the first accused is liable to be punished for the offence under Section 138 of Negotiable Instruments Act. The impleadment of the petitioner in C.C.No.421 of 2018 is nothing but a clear abuse of process of law. Considering the same, the complaint filed by the respondent in C.C.No.421 of 2018 cannot be sustainable as against the petitioner.

4. Considering the fact that the complaint in C.C.No.421 of 2018 is of the year 2018, the Trial Court is hereby directed to complete the Trial within a period of six months from the date of receipt of a copy of this order as against the first accused.

5. Accordingly, this petition is allowed. C.C.No.421 of 2018 pending on the file of the learned Judicial Magistrate (FTC) at Alandur, Chennai is hereby quashed as against the petitioner / A2. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate (FTC)
Alandur, Chennai

+1 cc to Mr.Vimal B.Crimson, Advocate, S.R.No.30005

+2 ccs to Mr.G.Moorthi P.Uma Maheswari, Advocate,
vide S.R.No.30314(10/06/2019)

Cr1.O.P.No.2601 of 2019
and
Cr1.M.P.No.1677 of 2019

NRL (CO)
SSM(30/04/2019).
SSM(10/06/2019).