

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.21992 of 2018
and
CrI.M.P.Nos.12080 & 12155 of 2018

S.Malathi Dhobhel Petitioner/Accused No.2

Vs.

1.K.Babu Respondent No.1/Complainant

2.M/s.SAF Engineers,
No.1406, Venkatasamy Naidu Lane,
Trichy Road,
Coimbatore.

3.Frank,
Partner of M/s. SAF Engineers,
No.1406, Venkatasamy Naidu Lane,
Trichy Road,
Coimbatore. Respondents Nos.2 & 3/Accused
Nos.1 & 3

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceeding before the Judicial Magistrate-II, (Fast Track Judicial Magisterial Level) of Coimbatore), in C.C.No.876 of 2017.

For Petitioners: Mr.T.K.S.Gandhi

For R1 : Mr.S.Sivakumar

For R2 : Mr.Vignesh Venkat

O R D E R

The prayer sought for in the Criminal Original Petition is to call for the records and quash the proceeding before the Judicial Magistrate-II, (Fast Track Judicial Magisterial Level), Coimbatore in C.C.No.876 of 2017.

2.The case of the 1st respondent/complainant is that the second and third accused in the capacity of the partners of the first accused approached the complainant for a hand loan of Rs.8,00,000/- (Rupees eight lakh only) on 20.02.2017, for business needs and agreed to return the money in six months. In discharge of the said loan, the accused issued a cheque bearing No.707903 dated 01.08.2017 drawn on Punjab National Bank, Gandhipuram Branch, Coimbatore for Rs.8,00,000/- (Rupees eight lakh only) and the same was presented by the complainant and it was dishonoured as "Insufficient funds". Thereafter the first respondent initiated proceedings under Section 138 of the Negotiable Instruments Act.

3.The learned counsel for the petitioner submits that the petitioner/accused No.2 had no knowledge about the alleged loan transaction said to have taken place in the year 2017, whereas she had retired from the partnership as early as on 13.10.2015. Further submitted that the cheque issued by the bank in the year 2015, which cannot be used after a period of two years.

4.It is seen that the petitioner/accused No.2 had retired from the partnership firm on 13.10.2015 but, there is no signature from the witness and there is no proof to show that it was registered before the Registrar of Societies under the Societies Act.

5.The learned counsel for the respondent submits that the trial has already been commenced in this case. Hence, he opposed to allow the prayer sought for by the petitioner.

6.It is seen that trial has already been commenced and at this stage, the entire proceedings in C.C.No.876 of 2017 cannot be quashed. However, the petitioner is at liberty to raise all the points raised in this petition before the trial Court. Further considering the case is of the year 2017, the learned Judicial Magistrate-II, (Fast Track Judicial Magisterial Level) of Coimbatore is directed to complete the trial in C.C.No.876 of 2017 within a period of three months from the date of receipt of a copy of this Order.

7.With the above observations, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

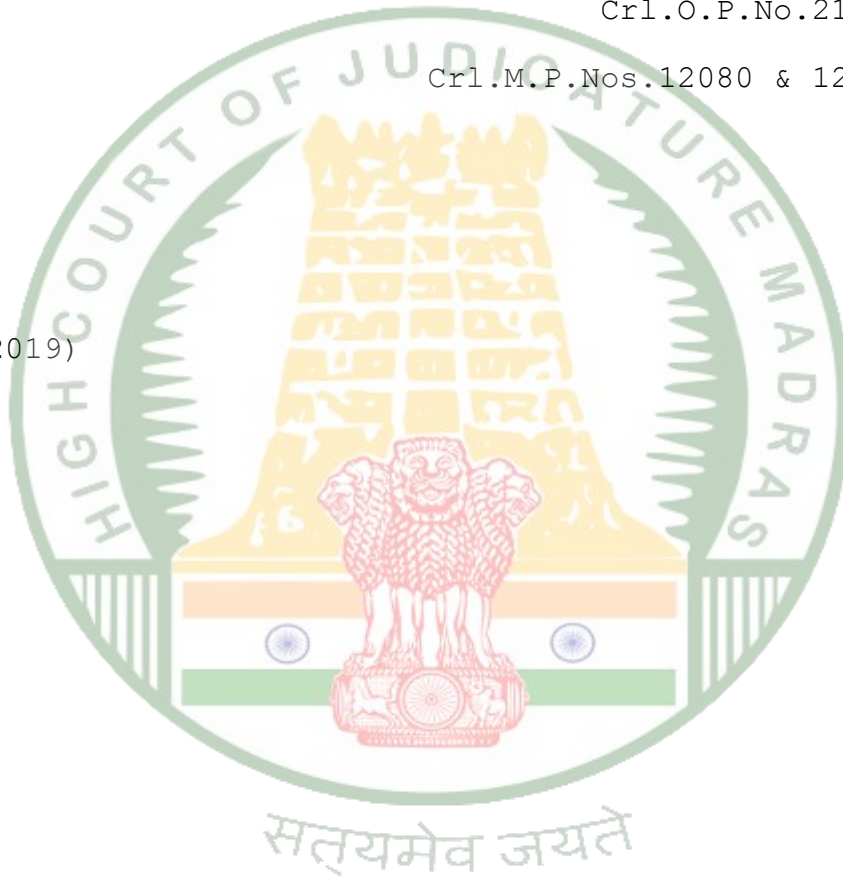
1.The Judicial Magistrate-II
(Fast Track Judicial Magisterial Level),
Coimbatore.

+1 CC to Mr.S.Sivakumar, Advocate sr 32065.

+1 CC to Mr.Vignesh Venkat, Advocate sr 31856.(06/06/2019)

Crl.O.P.No.21992 of 2018
and
Crl.M.P.Nos.12080 & 12155 of 2018

KAN (CO)
SP (30/04/2019)



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