

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.06.2019

CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.14838 of 2019
and
Crl.M.P Nos.7270 & 7272 of 2019

S.Kala Srinivasan

..Petitioner

vs.

Mrs.Ashika N.Shah

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.890 of 2018 pending on the file of the IV Fast Track Court, Metropolitan Magistrate, George Town, Chennai - 1 and to quash the same.

For Petitioner : M/s.Mohamed Rafi

ORDER

This petition has been filed challenging the proceedings initiated by the respondent under Section 138 of the Negotiable Instruments Act.

2. The petitioner has been added as A2 in the complaint.

3. The learned counsel for the petitioner submitted that the petitioner had resigned from the post of Director with effect from 30.04.2015 and in this case, the cheque itself is said to have been given in the year 2017. Therefore, the petitioner cannot be made to face the trial before the Court below and the entire proceedings is an abuse of process of Court.

4. The averments made in the complaint shows that the cheque contains the signature of this petitioner. Therefore, this Court cannot go into the issue of whether, the petitioner was the Director during the relevant point of time, when the transaction took place and the same has to be established only during the course of the trial.

5. The other grounds raised by the learned counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot undertake the said exercise sitting in jurisdiction under Section 482 of Cr.P.C. It is left open to the petitioner to raise all the

grounds before the trial Court and the trial Court shall consider the same on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings at the stage.

6. The learned counsel for the petitioner requested that the presence of the petitioner may be dispensed with. Taking into consideration the facts and circumstances of the case, the presence of the petitioner is dispensed with before the Court below and he shall be represented by a counsel who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.

7. This Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in C.C.No.890 of 2018, on the file of the IV Fast Track Court, Metropolitan Magistrate, George Town, Chennai - 1, within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ub

To

1.The IV Fast Track Court,
Metropolitan Magistrate, George Town,
Chennai - 1.

2.The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to Mr.Mohamed Rafi, Advocate, S.R.No.49802

RR(CO)

RRS (09/07/2019)

CrI.O.P No.14838 of 2019