

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5997 of 2014
and M.P.Nos.1 & 2 of 2014

Parameswari.R

... Petitioner

Vs.

M/s.Indo Asian Finance Ltd.,
Represented by its Manager,
No.15, New Giri Road, T.Nagar,
Chennai - 600 017

.... Respondent

Prayer : Criminal Original petition filed under Section 482 Cr.P.C. to call for the records and quash the complaint in C.C.No.648 of 2013, on the file of the Fast Track Court-III, at Saidapet, Chennai and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.T.Annamalai
for Mr.B.Baskaran

For Respondent : No Appearance

O R D E R

The prayer sought for in the present Criminal Original Petition is to call for the records and quash the complaint in C.C.No.648 of 2013, on the file of the Fast Track Court-III, at Saidapet, Chennai and quash the same insofar as the petitioner is concerned.

2. The learned counsel for the petitioner would submit that the petitioner never issued any cheque as alleged by the respondent herein. In fact, she entered into hire purchase agreement and purchased mini bus with the finance of the respondent defacto complainant bearing Reg.No.PY 01 R 6707. On default of payment they had taken the vehicle and the said vehicle was sold out to one Mr.A.Vallavan @ Baskar on auction and also realised the said amount. The alleged cheque has been in the name of one, P.Ramamoorthy who is none other than Ex-husband of the petitioner. Thereafter the respondent presented the said cheque for collection and the same was returned with

endorsement 'kindly contact drawer' of the said cheque. Even then, the respondent issued legal notice dated 09.10.2013 under Section 138 of Negotiable Instruments Act. Immediately after receipt of the same, the petitioner issued detailed reply stating that the said alleged cheque was never issued by the petitioner and she has no legally enforceable debt over the defacto complainant. Without considering the said reply notice, mechanically the respondent filed complaint under Section 138 Negotiable Instruments Act. Therefore, he prayed for quashment of the complaint.

3. Though notice was served to the respondent, no one appeared on behalf of the respondent.

4. It is seen that this petition has been filed to quash the proceedings arising out of Section 138 Negotiable Instruments Act filed by the respondent herein. The crux of the allegation is that the petitioner issued cheque for a sum of Rs.15,89,239/- bearing cheque No.323928 dated 16.09.2013 in favour of the respondent towards part of discharge of her liability in the transaction of hire purchase agreement for purchasing a mini bus. The said cheque was deposited for collection by the respondent, which was returned as 'kindly contact drawer'. Therefore, they issued statutory notice. After receipt of the same, the petitioner / accused for the false allegation sent reply notice. The learned counsel for the petitioner pointed that the cheque was never issued by the petitioner. It is seen from the alleged cheque even from the naked eye, the cheque was signed by one, P.Ramamoorthy drawn on Punjab National Bank bearing cheque No.323928 dated 16.09.2013. The petitioner also categorically stated in her reply notice stating that the holder in due course cheque's status is non-enforceable negotiable instruments before the court below and also stating that the cheque was issued some other person for some other purpose. Therefore she did not issue the alleged cheque to the respondent. It is also seen from the account statement and the pass book pertaining to the account bearing No.14225 belongs to one, P.Ramamoorthy. The alleged cheque was issued from the said account and the petitioner is no way connected to the said account. Further it is also seen that after some calculation difference between the petitioner and defacto complainant vehicle was seized from the petitioner's possession and the said vehicle was sold out to one Mr.Vallavan @ Baskar and realised the said amount. Therefore there is no legally enforceable debt by the petitioner to the defacto complainant. Therefore, the complaint cannot be sustained as against the petitioner.

5. In view of the above discussion, this Criminal Original Petition is allowed and the proceedings in C.C.No.648 of 2013 on the file of the learned Fast Track Court-III at Saidapet,

Chennai is quashed insofar as the petitioner is concerned.
Consequently, connected miscellaneous petitions are closed.

lok

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

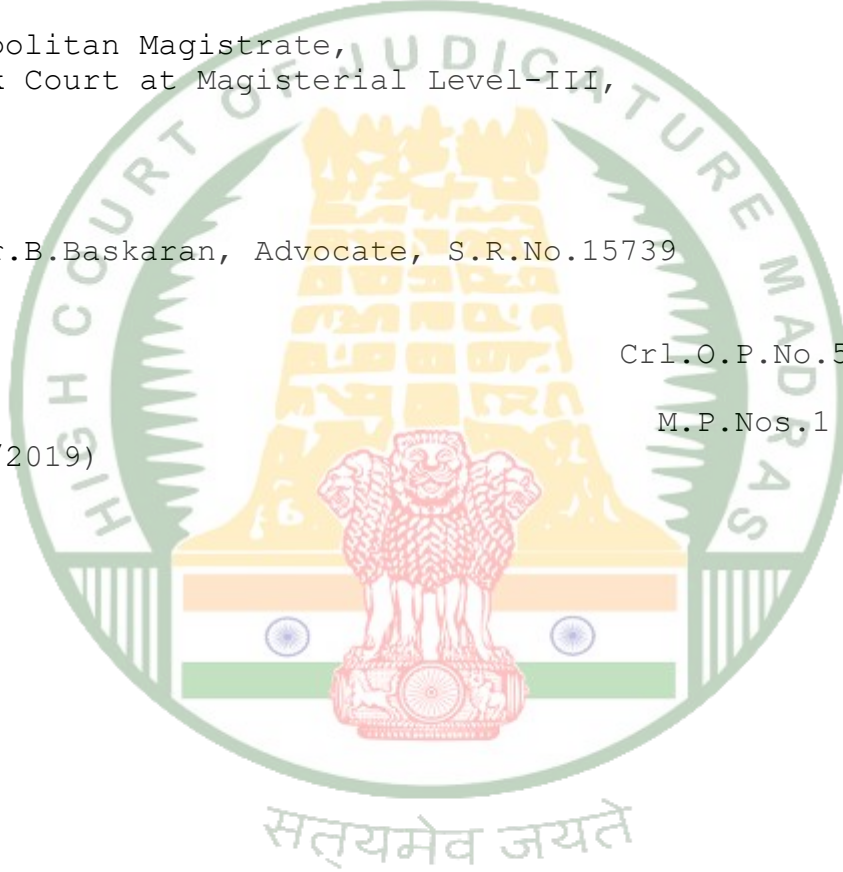
To

The Metropolitan Magistrate,
Fast Track Court at Magisterial Level-III,
Saidapet,
Chennai.

+1cc to Mr.B.Baskaran, Advocate, S.R.No.15739

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Kak(26/03/2019)



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