

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.25576 of 2014

and

M.P.No.1 of 2014

N.Kavitha ...Petitioner/Accused No.2

Vs.

L.Muthurathinam ...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the case pending against the petitioners in C.C.No.68 of 2013 on the file of the learned Judicial Magistrate, Fast Track Court, Tiruppur.

For Petitioner : Mr. C.Ramkumar  
For Respondent : Service Awaited

ORDER

This Criminal Original Petition has been filed challenging the proceedings initiated by the respondent against the petitioner for an offence under Section 138 of Negotiable Instruments Act.

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

3. The learned counsel for the petitioner submitted that admittedly, even as per the complaint, it was A1 who had signed and given the cheques in favour of the respondent and this petitioner has been added as an accused only on the ground that she is the wife of A1. The learned counsel submitted that the issue is squarely covered by the judgment of this Court in R.Priyadarsini v. LIC House Finance Ltd., reported in 2006 1 L.W Cr1. Page 58 and the judgment of the Hon'ble Supreme Court in

Aparna Shah v. Sheth Developer (P) Ltd., reported in 2013  
8 SCC page 71.

4. The facts of the case are squarely covered by the judgment cited by the learned counsel for the petitioner. Admittedly, the petitioner is not a drawer of the cheque and she has been made as an accused only on the ground that she is the wife of A1. Therefore, the proceedings as against this petitioner is an abuse of process of Court and it requires interference of this Court.

5. In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.68 of 2013 on the file of the Judicial Magistrate, Fast Track Court, Tiuppur is quashed in-so-far-as the petitioner is concerned. The Court below is directed to proceed further with the complaint in-so-far-as A1 is concerned and complete the proceedings within a period of three months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

uma  
To

The Judicial Magistrate,  
Fast Track Court, Tiruppur.

Copy to  
The Section Officer,  
Criminal Section,  
High Court, Madras

+1cc to Mr.C.Ramkumar , Advocate SR.No. 49188

CRL.OP.No.25576 of 2014  
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A.SK(19/07/2019)