

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.18481 of 2017
and
CrI.M.P.Nos.11251 & 11252 of 2017

M.Minal Vinoth

... Petitioner

Vs.

G.Somosundaram

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to C.C.No.3937/2015 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.S.Vijay

For Respondent : Mr.S.Adhinarayana Rao

ORDER

This Criminal Original Petition has been filed by the petitioner under Section 482 of Cr.P.C. to call for the records relating to C.C.No.3937 of 2015 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai.

2.The Learned Counsel appearing for the petitioner would submit that the petitioner never issued any cheque to the defacto complainant and she never borrowed any amount as alleged in the complaint. The petitioner being a doctor by profession was tenant under the wife of the respondent / defacto complainant. The respondent threatened the petitioner with dire consequences to vacate the premises. The respondent also threatened the petitioner in Jyothi Theatre owned by him and obtained this cheque and presented the same to harass the petitioner. There is no legally enforceable debt as against the petitioner as alleged by the respondent. Therefore, the petitioner prays for quashing the complaint.

3.The Learned Counsel for the respondent would submit that the petitioner is a doctor. Her husband suffered huge loss in his business and therefore the petitioner being a friend of the respondent's wife and the tenant under them, borrowed a sum of Rs. 2 lakhs from the respondent. Thereafter, they issued a cheque bearing No.441989 dated 11.03.2015 for Rs.2 lakhs drawn on ICICI Bank, Velachery Branch, Chennai-42 to repay the said loan amount. When the cheque was presented, it was dishonoured by the petitioner's bank and the same was returned with an endorsement 'insufficient funds'. The respondent thereafter issued a legal notice dated 26.03.2015 to the petitioner and also filed a private complaint in C.C. No.3937 of 2015 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai, under Section 138 of Negotiable Instrument Act.

4.Heard both sides.

5.It is seen from the reply notice that there is no whisper about the cheque obtained by the defacto complainant and that the petitioner was threatened in Jyothi Theatre owned by the respondent. The petitioner is the sole accused. The petitioner was the tenant under the respondent. When the rent was not properly paid by the petitioner, she was threatened by the respondent to vacate the premises, but the petitioner submitted that there is no legally enforceable debt and she has not borrowed any amount from the respondent.

6.Admittedly, the petitioner's family is the tenant under the respondent / defacto complainant's wife. During the tenancy, the alleged cheque was issued by the petitioner for the loan borrowed from the respondent. The only issue between the parties is vacating the premises. Further, it is seen from the reply notice that the petitioner was a tenant under the respondent / defacto complainant's wife. The petitioner also vacated the premises. At the time of vacating the premises, there were several papers scattered in the premises and the petitioner had also missed a signed blank cheque in the rented premises at the time of vacating the premises. Whereas, there is absolutely no whisper of this stand in the quash petition. It is stated in the petition that the petitioner was threatened and compelled to issue the subject cheque in Jyothi Theatre owned by the respondent and the petitioner has also did not lodge any complaint in any police station regarding this.

7.Moreover, the issues involved and the grounds raised have to be considered only during the trial. Therefore, this court is

not inclined to quash the petition. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The IX Metropolitan Magistrate
Saidapet, Chennai.

2.do through The Chief Metropolitan Magistrate,
Chennai.

+1 cc to Mr.S.Vijay, Advocate Sr.No.13102

+1 cc to Mr.Adinarayana Rao, Advocate Sr.No.12592

CrI.O.P.No.18481 of 2017
and
CrI.M.P.Nos.11251 & 11252 of 2017

PM(CO)
CSL/14.03.2019