



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL OP (MD) . No.19133 of 2015

and

M.P. (MD)No.1 of 2015

WEB COPY

P.Queen Regi Rugida Jerart

... Petitioner / Accused

Vs

Essaikumaran

... Respondent / Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to C.C.No.41 of 2015, on the file of the Fast Track Court (Magistrate Level), Kovilpatti, and to quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.C.Jeganathan
For Respondent : Mr.M.Saravanan

O R D E R

The petitioner is facing trial in C.C.No.41 of 2015, on the file of the learned Fast Track Court (Magistrate Level), Kovilpatti for the offence under Section 138 of Negotiable Instruments Act. The respondent is the complainant in the said complaint. To quash the same, this criminal original petition has been filed.

2.The petitioner's counsel reiterated all the contentions set out in the memorandum of grounds. He pointed out that on 01.11.2014, the petitioner has caused a paper publication in which, it has been clearly mentioned that the cheques in question was given as security to some other person and not to the respondent herein. The cheque came to be presented only on 04.12.2014. The petitioner's counsel also pointed out that one Kalimuthu who is referred by the complainant in this complaint is none other than the brother of the second defendant in O.S.No.371 of 2014. It is also true that the said suit in O.S.No.371 of 2014 came to be filed even before the presentation of the complaint cheque. The prayer in the said suit in O.S.No.371 of 2014, on the file of the Principal District Musnif Court, Thoothukudi, is for a direction that this cheque should be handed over to the petitioner herein. The petitioner is the second plaintiff while her husband is the first plaintiff.

3.I am of the view that these defences will have to be established by the petitioner herein only before the Court below. These are not grounds good enough for invoking the inherent powers of this Court for quashing the impugned complaint. Therefore,



leaving open all the petitioner's defences and contentions, the criminal original petition stands dismissed. It is made clear that this Court has not gone into the merits of the petitioner.

Since the petitioner is a lady, her personal appearance before the Court below is dispensed with. However, the Court below will insist on the personal appearance of the petitioner only on three occasions namely, to answer the charge, to examination under Section 313 of Cr.P.C., and at the time of pronouncing Judgment. On all other occasions, the petitioner need not appear before the Court below. However, on those occasions, the petitioner will have to be represented by her counsel. If the petitioner's counsel is also absent, the benefit of dispensing the personal appearance of the petitioner will stand automatically vacated. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)

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To:
The Fast Track Court
Magistrate Level,
Kovilpatti.

+1 CC to M/s.M.SARAVANAN, Advocate (SR-103080[F] dated 03/12/2019)
+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-103162[F]

Crl.O.P. (MD)No.19133 of 2015

02.12.2019

SMA/02/06/2020/2P/4C