IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO.6313 OF 2020

BETWEEN:

MS. SPRUTHI SUNIL SURPUR
AGED ABOUT 30 YEARS
D/O SUNIL KUMAR SURPUR
NO.191/1, SHUBHPRADA
1ST CROSS, KURBARAHALLI ROAD
MAHALAKSHMIPURAM
BENGALURU-560 086

AND ALSO AT:
C/O DR. JAMES. B. REILLY M.D.
PROGRAM DIRECTOR
ALLEGHENY GENERAL HOSPITAL
INTERNAL MEDICEINE RESIDENCY
320, EAST NORTH AVENUE,
PA-15212 (USA) ...PETITIONER

(BY SRI. PRABHUGOUDA B. TUMBIGI, ADVOCATE)

AND:

SRI. KUMARASWAMY M.C.
AGED ABOUT 64 YEARS
S/O CHANDRAIAH
PRESENTLY R/AT NO.A-022
BEARY'S LAKE SIDE HABITAT
NO.18, SHATHIVANA
BENGALURU-560 092 ... RESPONDENT

(BY SRI. S. VENKATESHWARAN, ADVOCATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C, PRAYING TO QUASH THE PROCEEDINGS IN C.C.NO.2053/2019 REGISTERED BY HON'BLE VI ADDITIONAL

JUDGE, COURT OF SMALL CAUSES AND ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU FOR THE OFFENCE P/U/S 138 OF THE N.I. ACT.

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THIS CRIMINAL PETITION COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner is before this Court seeking for quashing of the proceedings in C.C.No.2053/2019 pending before the 6th Additional Judge, Court of Small Causes and Chief Metropolitan Magistrate, Bangalore for offence punishable under Section 138 of Negotiable Instruments Act.

2. In the complaint filed in PCR No.1706/2019 renumbered as C.C.No.2053/2019, the complainant – father-in-law of the accused has alleged that he has spent several amounts of monies towards the education of the accused and amount of travel expenses, application made to various educational institutions and/or

for her residency programme in USA as regards which it is alleged that the accused has issued a cheque which on presentation was dishonoured for insufficiency of funds.

3. The petitioner-accused is before this Court contending that no such cheque has been handed over, there is a dispute between the petitioner and son of the complainant who is her husband. She was forced to leave the matrimonial home and when she left the matrimonial home, she had left all her cheques books in the matrimonial home, which has been made use by the complainant to fill-in the details and presenting the same for clearance.

4. It is further alleged that there was no agreement between herself and father-in-law-complainant for return of money, there is no legally valid debt due and liable to be paid by her to the complainant and as such, the entire proceedings

are initiated against the petitioner due to matrimonial dispute between herself and son of the complainant.

5. Sri.Prabhugoud B.Tumbigi, learned counsel for the petitioner reiterated the contentions in the petition and submits that the proceedings are required to be quashed.

6. Per contra, Sri.S.Venkateshwaran, learned counsel for respondent would submit that the huge amounts of monies have been spent and expenses have been incurred by the complainant father-in-law in respect of the accused daughter-in-law for her education, etc and false statements are made by her as regards the son of the complainant suffering from mental disorder, etc. The said matter is pending consideration before the Medical Council of India who is investigating the false allegations made by the petitioner-accused-daughter-in-law

including against the hospital on account of production of a forged or fabricated admit card and medical fitness certificates and on this ground, he submits that the above petition is to be dismissed.

7. Heard Sri.Prabhugoud B.Tumbigi, learned counsel for the petitioner and Sri.S.Venkateshwaran, learned Counsel for the respondent and perused papers.

8. The issue before this Court is as regards whether cheque alleged to have been issued by the petitioner to the respondent was on account of a legally valid debt due and payable by the petitioner to the respondent. A perusal of the complaint does not indicate any such valid debt due and liable to be paid. The claim made is that there is a matrimonial dispute between son of the complainant and the respondent. Though learned Counsel for the respondent would

submit that all the amounts paid to or on behalf of the respondent is through normal banking channels and even the daughter of the complainant has spent huge amount of money for the education of the petitioner in USA.

9. Learned Counsel for the respondent further submits that apart from the payments made in USA, payments have also been made by the complainant in India as also the sponsorship amount.

10. Despite all the above submission, there is no particular document which has been produced by the complainant to show that the petitioner had agreed to refund the money and/or repay the money or that the amount paid by the complainant on behalf of the petitioner was a loan requiring to be repaid.

11. Taking into consideration the fact that the petitioner was forced to leave the matrimonial home leaving behind all her cheque books etc and also taking into consideration that the present complaint has been filed only thereafter and not any time earlier nor is any demand for the money made any time earlier, I am of the considered opinion that there is no legally valid debt due and liable to be paid by the petitioner to the respondent-complainant. As such, the proceedings in C.C.No.2053/2019 arising out of PCR No.1706/2019 pending on the file of 6th Additional Judge, Court of Small Causes and Additional Chief Metropolitan Magistrate, Bengaluru is hereby quashed.

12. Petition is allowed.

Sd/-
JUDGE

Prs*