

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Cr1.O.P.No.13884 of 2015

and

M.P.Nos.1 & 2 of 2015

----

P. Narmadha

...Petitioner

Vs

K. Sivakumar

...Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C to quash the complaint filed by the respondent in STC No.491 of 2013 against the petitioner on the file of Judicial Magistrate No.I, Erode.

For Petitioner : Mrs. Revathy  
for Mr.R.Nalliyappan  
For Respondent : Mr. Ramaraj,  
for Mr. M. Guruprasad

ORDER

This Criminal Original Petition has been filed to quash the case as against the petitioner herein in STC.No.491 of 2013.

2. The respondent herein has filed a complaint against the petitioner and her husband under Section 138 of the Negotiable Instruments Act in STC.No.491 of 2013 on the file of the Judicial Magistrate No.I, Erode. During the pendency of the complaint, the petitioner has filed this Original Petition to quash the complaint against her.

3. The learned counsel for the petitioner would submit that she is not a signatory of the cheque and her husband alone has signed in the cheque and borrowed money and she has been impleaded as second accused in the complaint claiming to be the wife and she is no way connected with the cheque issued by her husband and therefore, the complaint as against her has to be quashed.

4. The learned counsel for the respondent would submit that the petitioner is the wife of the first accused. Both of them had jointly borrowed money from the respondent and issued a cheque and therefore, she has been arrayed as A2 in this case.

5. Heard both sides and perused the materials available on records.

6. Admittedly, the husband of the petitioner borrowed money from the respondent and issued a cheque in favour of the respondent. It is submitted by the learned counsel for the petitioner that she is not a signatory and the first accused alone has signed in the cheque. The complaint also filed in the individual capacity, not as a registered firm or company or legal entity. Therefore, under this circumstances, since the petitioner has not signed in the cheque, the complaint under Section 138 of the Negotiable Instrument Act does not lie against the petitioner.

7. Therefore, the complaint as against the petitioner/A2 in STC No.491 of 2013 on the file of the Judicial Magistrate No.I, Erode, is quashed. Since the case is pending from 2013, the learned Magistrate is directed to proceed with the STC No.491 of 2013 against the first accused and complete all the proceedings and dispose within a period of 3 months.

8. With the above directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I, Erode.

2. The Chief Judicial Magistrate, Erode.

+1cc to Mr.M.Guruprasad, Advocate in SR.NO..31536

WEB COPY

CrI.O.P.No.13884 of 2015

LN(CO)  
RV(13/10/2020)