

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.01.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.29295 of 2013
and
M.P.No.1 of 2013

V.Kavitha ... Petitioner/A3

Vs.

1.Sri T.M.R. & Co
Rep by its Managing Director
K.Selvaraj ... Respondent/Complainant

2.M/s.Adith Knitting Mills
Rep by its Partner K.P.Venkatachalam

3.K.P.Venkatachalam ... Respondent/ A1 and A2

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records pertaining to the case in S.T.C.No.63 of 2012 on the file of Judicial Fastrack Magistrate Court No.1 of Erode and quash the same by allowing this quash petition.

For Petitioner : Mr.N.Ponraj

For Respondents: M/s. D.Balachandran for R1

ORDER

This Petition has been filed by the petitioner, praying to call for the records pertaining to the case in S.T.C.No.63 of 2012 on the file of Judicial Fastrack Magistrate Court No.1 of Erode and quash the same.

2. The 3rd accused is the petitioner before this Court. It is the case of the respondent/complainant that the respondent on account of business dealing in between the petitioner/accused and the said respondent/complainant, the petitioner and her company is liable to pay a sum of Rs. 1,67,273/- for which the petitioner's husband /A3 issued two cheques in favour of the complainant namely one cheque bearing No.571591, dated 18.8.2011 for Rs.81,273/- and another Cheque bearing No. 224785, dated 28.09.2011 for Rs.80,000/- drawn on account of the State Bank of India, Tiruppur and the Indusind Bank, Tirupur respectively. As per the promise and assurance of the accused, the respondent /complainant presented these cheques for collection on 03.11.2011 through his banker Bank of Baroda, Erode Branch, but the same was dishonored by the accused's banker on 04.11.2011 along with a

memo stating the reason for dishonor as "insufficient Funds". Thereafter, on 14.11.2011 and 22.11.2011, the respondent/complainant issued a Statutory notice to the accused demanding payment of the said amount within 15 days from the date of receipt of the said notice. The accused purposely evaded the notice and returned the same as not claimed on 23.11.2011. The accused neither sent any reply nor paid the amount, hence a compliant has filed under Section 138 r/w Sec.142 of Negotiable Instruments Act. Against the said compliant, the petitioner/A3 filed a quash petition under Section 482 of Cr.P.C before this Court.

3. The learned counsel for the petitioner would submit that the petitioner is arrayed as A3 and wife of the A2 who is the partner of A1 company and the petitioner is not having active participation in the first respondent company and the petitioner is not a partner and no proof was enclosed with the compliant and also not a signatory in the cheques which was the subject matter of the compliant. In the absence of the participation or signatory, filing the complaint under Section 138 of Negotiable Instruments Act, implicating the petitioner in the complaint is un-settled one. Hence he prays for allow this petition.

4.The learned counsel for the respondent on instructions would submit that the respondent did not dispute the facts submitted by the learned counsel for the petitioner.

5.Considered the concerned views expressed by the learned counsel on both sides, I am inclined to quash the complaint in respect of the petitioner/A3 alone. However, the trial proceedings in respect of other accused may continue and the trial Court complete the trial within a period of six months from the date of receipt of copy of this order.

6.Accordingly this Criminal Original Petition is allowed and the proceedings in S.T.C.No.63 of 2012 on the file of Judicial Fastrack Magistrate Court No.1 of Erode, is hereby quashed in respect of petitioner alone. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

jrs

To

The Judicial Fastrack

Magistrate Court No.1 of Erode.

+lcc to Mr.D.Balachandran , Advocate SR.No. 7061

+lcc to Mr.N.Ponraj , Advocate SR.No. 7485

CrI.O.P.No.29295 of 2013

and MP.No.1 of 2013