

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.1467 of 2020
and
Crl.M.P.Nos.879 & 880 of 2020

L.Vani Sri
W/o. Loganathan,
No.51, Silver Stone Apartments,
2nd Floor - B Type,
Chinnamuthu Main Street,
Edayankattu Valasu,
Erode. Petitioner

Vs

S.R.Koushikkarthi
S/o. Ramasamy,
No.269, Senguthapuram,
Chithode - 638 102. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in STC.No.555 of 2019 on the file of the Fast Track Judicial Magistrate Court No.I, Erode, Erode District and quash the same.

For Petitioner : Mr.S.Veeraraghavan
For Respondent : No Appearance

O R D E R

This petition has been filed to quash the proceedings in STC.No.555 of 2019 on the file of the Fast Track Court No.I, Erode, Erode District

2. The learned counsel for the petitioner submitted that there are totally two accused, in which the petitioner is arrayed as second accused who is none other than the wife of the first accused.

3. According to the complainant, the first accused borrowed a loan and for the repayment of the said loan, the second accused had issued a cheque. On verifying the acknowledgment produced along with the complaint and the alleged cheque, the

signature of the petitioner in both the documents differs. Therefore, the petitioner never issued any cheque towards the loan borrowed from the defacto complainant. The learned counsel further submitted that in the reply notice itself it was categorically denied the issuance of cheques and also denied the borrowal of loan amount from the defacto complainant.

4. It is seen that the respondent lodged a complaint for the offences under Section 138 of Negotiable Instruments Act alleging that the accused borrowed a sum of Rs.1,00,000/- from the defacto complainant on 11.08.2019. They also agreed to repay the same with interest at the rate of 18% per annum, both are having joint account and both are permitted to operate the account. Therefore, the second accused issued a cheque dated 10.10.2019 on Lakshmi Vilas Bank, Chithode Branch, for a sum of Rs.1,00,000/-. When it was presented for collection, the same was returned as dishonoured for the reason "funds insufficient" by a memo dated 15.10.2019. Hence, the respondent initiated proceedings as against both the accused under Section 138 of Negotiable Instruments Act.

5. The only ground raised by the petitioner is that the petitioner never signed in the alleged cheque and she never issued the cheque to the respondent herein for repayment of loan. Though the signature found in the alleged cheque as well as the acknowledgment produced by the defacto complainant on receipt of the statutory notice from the defacto complainant differs, it cannot be decided under Section 482 Cr.P.C., The grounds raised by the petitioner are mixed question of facts and as such the same cannot be considered under the quash petition. Further, the alleged cheque was returned for the reason "funds insufficient". Therefore, it cannot be concluded that the signature found in the cheque is not signed by the petitioner herein. Therefore, it has to be decided before the trial Court in the manner known to law.

Considering the facts and circumstances, this Court is not inclined to quash the proceedings. Hence, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dh

To
The Judicial Magistrate, Court No.I
Fast Track Court, Erode,
Erode District.

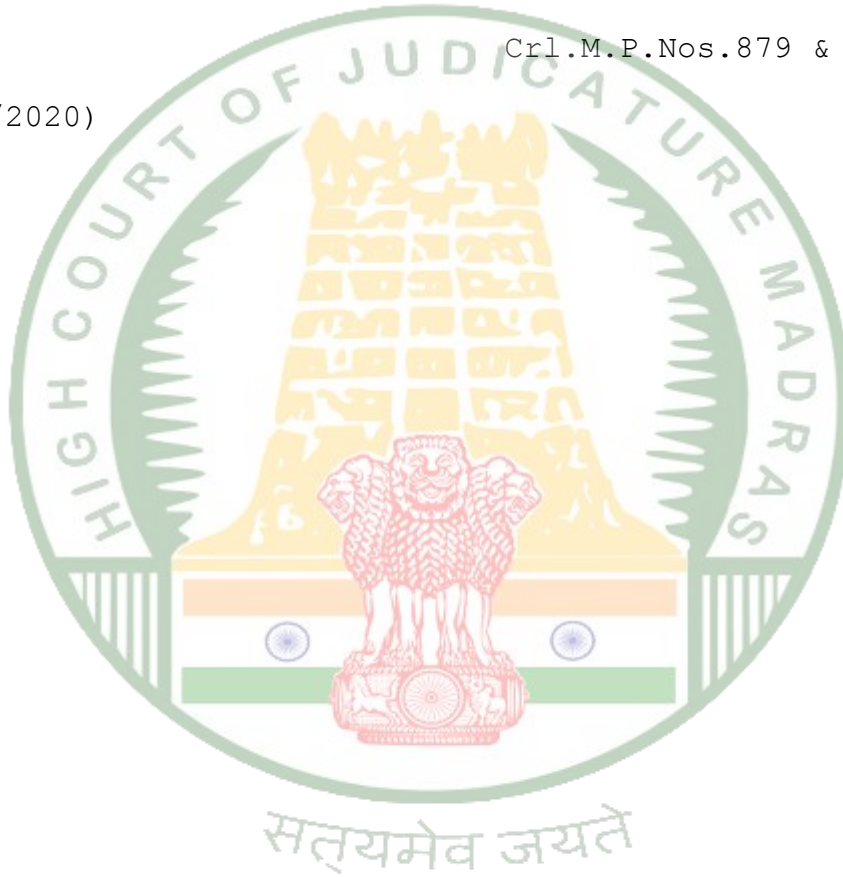
+1 cc to Mr.S.Veeraraghavan, Advocate Sr.No. 25081

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and

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AD(CO)
RMP(17/08/2020)



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