

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.22753 of 2016  
and Crl.M.P.Nos.10612 & 10656 of 2016

S.Vidhyalakshmi,  
W/o.K.Sakthivelmourougan

... Petitioner

Versus

N.Sivasittananda Coumaran

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records on the file of the Judicial Magistrate No.III, Puducherry in S.T.C.No.166 of 2016 and quash the same.

For Petitioner : Mr.P.Tamizh Kumaran

For Respondent : Mr.M.Govindaraju

O R D E R

This petition has been filed to quash the proceedings as against the petitioner/accused.

2. The learned counsel for the petitioner submitted that the respondent/complainant has filed the complaint on the strength of Power of Attorney. In the Power of Attorney document as well as in the sworn statement, there is no reference about whether the Power of Attorney is aware about the details of the transactions between the petitioner and the respondent. Further, in support of his contention he relied upon the judgment of A.C.Narayanan & Anr. vs. State of Maharashtra & Ans., reported in 2014, Crl.L.J.576.

3. The learned counsel for the respondent submitted that petitioner/accused had taken a loan of Rs.5,00,000/- for her husband's business and she is the signatory of the cheque. He further submitted that the cheque was presented and the same was dishoured. Hence, the respondent had issued a notice to the petitioner and he has also replied for the same. Thereafter, following the statutory provisions, the case under Section 138 of N.I. Act has been filed in the year 2016. After filing of the above petition, the proceedings in the trial Court has been stalled for the past four years. He

further submitted that the points raised by the petitioner ought to be agitated before the Trial Court during the trial and not in the quash petition. Further P.W.1/Power of Attorney evidence is to be taken in the case, whatever, the evidence so far collected is prior to the cognizance and after cognizance the witnesses are yet to be examined. After, cross examination only, it would be known whether, P.W.1 is privy to the transaction. He further submitted that it is open for the respondent to examine the defence witnesses, if he feel so, to strengthen his contention. This petition was filed only to drag on the proceedings. Hence, he prayed for dismissal of the above petition.

4. Considering the rival submissions and on perusal of the materials it is seen that the case has to be decided after the cross examination of P.W.1/Power of Attorney. Hence, this Court is inclined to dismiss the quash petition. The Trial Court is directed to complete the trial within a period of four months from the date of receipt of a copy of this order or after lifting of the lockdown and regular functioning of the Courts whichever is earlier.

5. This Criminal Original Petition is dismissed accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To:

1.The Judicial Magistrate No.III,  
Puducherry.

2.-do-the Chief Judicial Magistrate Court,  
Puducherry.

CrI.O.P.No.22753 of 2016  
and CrI.M.P.Nos.10612 & 10656 of 2016

AJS (CO)  
CB(02/11/2020)