



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.02.2020
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.8844 of 2014
and
M.P.Nos.1 & 2 of 2014

Hemalatha

...Petitioner/7th Accused

Vs.

Azhar Traders,
Rep. by its Proprietor
Mohammed Ali,
5/69, Arumugham Layout,
Jeeva Nagar, Udmalpet,
Tirupur District.

...Respondent/complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the complaint in C.C.No.133 of 2013 before the Judicial Magistrate No.I at Udmalpet as against the petitioner.

For Petitioner : Mr.V.T.Narendiran

For Respondents: Mr.N.Umapathi

ORDER

This Criminal Original Petition has been filed seeking to quash the complaint in C.C.No.133 of 2013 before the Judicial Magistrate No.I at Udmalpet as against the petitioner.

2.The case of the prosecution is that the respondent/complainant, namely M/s.Azhar Traders, has filed a complaint under Section 200 of Cr.P.C. read with Section 138 of Negotiable Instruments Act, alleging that the accused No.6 had issued three cheques for a sum of Rs.2,60,000/- on different dates and when the said cheques were presented, the same were returned on the ground of insufficient funds. Thereafter, the complainant had issued a notice under Section 138 of the Negotiable Instruments Act to the 6th accused to make the



payment. However, the 6th accused has not made the payment. Hence, he filed a complaint in C.C.No.273 of 2013 before the Judicial Magistrate Court No.1.

3. Pending the complaint, the complainant approached all the accused for payment of the balance amount and in turn, all the accused agreed to pay the amount and issued a cheque bearing No.813449 drawn on Canara Bank, Udumelpet, dated 11.01.2013 in favour of the complainant to the tune of Rs.18,25,000/- towards payment of the balance amount and also for the cheque amount. When the complainant had presented the cheque with his banker for collection, the same was returned unpaid stating that the account was closed, through the bank's memo dated 17.01.2013. Thereafter, the complainant had issued a legal notice to all the accused and he has filed a complaint in C.C.No.133 of 2013 before the learned Judicial Magistrate No.1, Udumalpet. Challenging the same, the petitioner/7th accused filed the present criminal original petition before this Court.

4. The learned counsel for the petitioner submitted that though the petitioner is one of the Directors in the company, she cannot be implicated for the offences, without any specific allegation against her. The learned counsel further submitted that the averments in the complaint does not clearly indicate the averments against the petitioner and hence, the complaint is liable to be quashed.

5. The learned counsel for the respondent, in turn, submitted that there is no specific allegation against the petitioner herein and, therefore, the complaint insofar as the petitioner herein alone may be quashed. However, it is submitted that as against the other accused persons, noted in the complaint, allegations have been made and, therefore, the trial should be allowed to reach its logical conclusion.

6. This Court has given careful consideration to the submissions made by the respective counsel.

7. A perusal of the materials available on record reveals that the 6th accused had misused the cheque by giving the same to the complainant, without the knowledge of the 7th accused/petitioner herein, who does not have a part in the day-to-day affairs of the company. A perusal of the complaint also reveals that no allegations have been made against the petitioner herein and the sum and substance of the complaint is only as against the 6th accused, who has to settle the amount, which he had borrowed from the complainant. In the above circumstances, this Court is of the considered view that there



being no allegation as against the petitioner herein and further the learned counsel for the complainant also submits that he is not having any objection to quash the complaint insofar as the petitioner alone is concerned, this Court is inclined to allow the petition by quashing the complaint insofar as the petitioner herein is concerned.

8. Accordingly, the present Criminal Original Petition stands allowed and consequently, the complaint in C.C.No.133 of 2013 on the file of the Judicial Magistrate No.I at Udmalpet, is quashed, insofar as the petitioner herein/7th accused is concerned. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

hvk

To

1.The Judicial Magistrate No.I,
Udumalpet.

2.The Chief Judicial Magistrate
Tiruppur (for Information)

+1 cc to Mr.V.T.Navendhiran Advocate sr7957

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mr(co)
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