

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.1867 of 2021

and Crl. MP. No.455 of 2021

Valarmathi ... Petitioner
vs.

Senthamil Finance,
rep by its Administrative Partner,
K.Palanisamy,
Namakkal Town & Taluk. ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to pass an order to directing the Judicial Magistrate Court No.1, Namakkal, to take application filed U/s.258 of Cr.P.C. on file and pass orders on merits in the said application in C.C.No.456 of 2018 till the disposal of the suit in O.S.No.327 of 2018 renumbered as C.O.S.No.10 of 2020 on the file of Principal District Court, Namakkal.

For Petitioner : Mr.T.Dhanya Kumar

ORDER

This petition has been filed for a direction to the Court below to entertain the application filed by the petitioner under Section 258 of the Code of Criminal Procedure, wherein the petitioner wants the Court below to stop the proceedings on the ground that the respondent has already initiated a Civil Suit on the very same cause of action and parallely he has also filed a complaint for an offence under Section 138 of the Negotiable Instruments Act.

2. Heard Mr.T.Dhanyakumar, learned counsel appearing for the petitioner.

3. In the considered view of this Court, a Civil suit and Criminal proceedings initiated under Section 138 of the Negotiable Instruments Act, can go on simultaneously and the law on this issue is well settled. Useful reference can be made to the judgment of the Hon'ble Supreme Court in D.Purushotama Reddy and Ors. Vs. K. Sateesh, reported in 2008 (8) SCC 505. In fact, the Hon'ble Supreme Court has gone to the extent of saying that even an acquittal in 138 proceedings will not be a bar to institute Civil proceedings, since the standard of proof in both the cases are completely different and the effect of the dishonor of a cheque, results in an offence and whereas the suit is filed for the recovery of money.

4. In view of the above, this Court is not inclined to issue any directions to the Court below, since the ground on which the petitioner is seeking for stopping the proceedings is unsustainable.

5. In the result, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

jv

To

1. The Judicial Magistrate No.I,
Namakkal.

+ 1 C.C.to Mr. C. Prabakaran, Advocate, Sr.No.6458

GMR(CO)
SM/08/03/2021

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