



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2021

WEB COPY

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THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

CRL.O.P.No. 24894 of 2016  
and Crl.MP.No. 12032 of 2016

S. Priyadarshini .. Petitioner

Versus

V.Thangavel .. Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in STC.No.52 of 2016 on the file of the Judicial Magistrate No.II, Salem and quash the same.

For Petitioner : Mr.V.V.Sairam

For Respondent : No Appearance  
Notice Served - Name Printed

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ORDER

The petitioner is the accused in S.T.C.No.52 of 2016 on the file of the learned Judicial Magistrate No.II, Salem.

2. The respondent/complainant filed a private complaint under Section 200 Cr.P.C., against the petitioner/accused for an alleged offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the 'NI Act') before the learned Judicial Magistrate No.II, Salem.

3. The case of the respondent/complainant is that the petitioner/accused borrowed a sum of Rs.25,00,000/- from the respondent/complainant. It is the further case of the respondent/complainant that the petitioner/accused issued a cheque bearing No.204711, dated 11.01.2013 for a sum of Rs.15,00,000/- drawn on IDBI Bank, Salem-7 and when the cheque was presented for encashment by the respondent/complainant



through his banker viz., M/s. Karur Vysya Bank, Salem-4, which was dishonoured for the reason "Payment Stopped". Therefore, the respondent/complainant issued a notice dated 16.05.2013 to the petitioner/accused and the petitioner after receiving the said notice, the petitioner/accused has not sent any reply to the complainant. Therefore, the respondent/complainant filed a private complaint under Section 200 Cr.P.C. before the learned Judicial Magistrate No.II, Salem, for an alleged offence punishable under section 138 of the NI Act, 1881.

4. Mr.V.Sairam, the learned counsel appearing for the petitioner contended that since the cheque was presented before the bank beyond the validity period of three months, the impugned complaint lodged against the petitioner is liable to be quashed.

5. Though notice has been served on the respondent and his name is printed in the cause list, none appeared on behalf of the respondent.

6. This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

7. At this juncture, the learned counsel appearing for the petitioner would submit that the personal appearance of the petitioner before the trial Court, may be dispensed with. He would also seeks that the time frame may be fixed to the trial Court to complete the trial.

8. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that the petitioner shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

9. Further, the petitioner is directed to give an undertaking in the form of affidavit that she will be duly represented by a counsel on all hearing dates and that the Counsel representing her will cross examine the prosecution witnesses on the same day she is examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event of her presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorial tactics,



it is open to the Trial Court to insist for her appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667. The learned Judicial Magistrate-II, Salem, is directed to complete the trial in S.T.C.No.52 of 2016, as expeditiously as possible and pass final order, preferably, within a period of Six Months, from the date of receipt of a copy of the order.

10. With the above observations and directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

msm

To

1. The Judicial Magistrate No.II, Salem.
2. The Public Prosecutor, High Court of Madras.

CRL.O.P.No. 24894 of 2016  
and CrI.MP.No. 12032 of 2016

KG(CO)  
CB(17/12/2021)