



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2021

WEB COPY

CORAM

THE HON'BLE MS. JUSTICE R.N.MANJULA

CRL.O.P.NOS.1967, 1972, 1973, 1978, 1980 & 1985 OF 2019
AND

CRL.M.P.NOS.1243, 1247, 1248, 1255, 1260 & 1400 OF 2019

1.M.Veni

2.M.Mohanapriya

3.M.Diwagar

..Petitioners in All Crl.OPs

Vs.

B.Muthusamy

..Respondent in Crl.OP.1967/2019

N.Velusamy

..Respondent in Crl.OP.1972/2019

K.Duraisamy

..Respondent in Crl.OP.1973/2019

K.Dhanushkodi

..Respondent in Crl.OP.1978/2019

N.Velusamy

..Respondent in Crl.OP.1980/2019

K.Maheswaran

..Respondent in Crl.OP.1985/2019

COMMON PRAYER in Crl.O.P.Nos.1967, 1972, 1973, 1978, 1980 & 1985 of 2019:

This Criminal Original Petitions are filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.Nos.1457, 1458, 1456, 1459, 1460 and 1455 of 2018 on the file of Judicial Magistrate No.II, (Fast Track Court-Magisterial Level), Coimbatore and quash the same.

In All Crl.Original Petition:

For Petitioners: Mr.K.Myilsamy

For Respondent : Mr.C.S.Saravanan

..in all Crl.O.Ps.



COMMON ORDER

These Criminal Original Petitions filed under Section 482 Cr.P.C, to call for the records in C.C.Nos.1457, 1458, 1456, 1459, 1460 & 1455 of 2018 on the file of Judicial Magistrate No.II, (Fast Track Court-Magisterial Level), Coimbatore and quash the same.

2. The petitioners are the legal heirs of one Murugesh. The first petitioner is the wife of late Murugesh and the second and third petitioners are his son and daughter. The respondent has filed a private complainant against these petitioners in their capacity as the legal heirs of the deceased Murugesh, by whom the respective cheques involved in these cases have been executed. It is alleged by the respondent that when the cheques drawn and issued by the late Murugesh, were presented for encashment, they were returned due to "no sufficient funds". Since Late Murugesh had committed suicide on 04.03.2018 his wife and children who are the petitioners herein have been impleaded as accused in all the above six criminal complaints filed by the respondents before the Jurisdiction Court for taking criminal action under Section 138 N.I.Act.

3. The learned counsel for the petitioners submitted that if the drawer of the cheque dies subsequently, the criminal liability under Section 138 of N.I.Act, goes with him and gets abated. No criminal liability can be fastened on the legal heirs of the deceased by way of filing criminal complaints under Section 138 N.I.Act. In support of his contentions, he cited the decisions reported in 2000 (1) R.C.R.(Criminal) 129; Bupinder Lima vs. State of Andhra Pradesh; and 2003 (4) R.C.R. (Criminal) 792; Smt.Girija vs. K.Vinay;

4. In the above judgements, it is held that wherever, the Special Act lacks any specific provision, the provisions of Cr.P.C. have to be pressed into service. Negotiable Instruments Act, does not have any specific provision which speaks about the impact of the proceedings under Section 138 N.I.Act on the death of the executor of the cheque. Since the criminal liability for dishonour cheque arise out of a personal action done by the accused, the case will get abated on his death. No doubt, the respondent is at liberty to file Civil Suit for recovery of money due to the respondent against the petitioners and seek a decree for recovering the same from the assets of the deceased inherited by his legal heirs. But so far as the criminal liability is concerned, as per the law laid down in many judgments, the liability of the accused gets abated and no criminal proceedings can be taken against the legal heirs of the deceased.



5. In view of the same, the proceedings in C.C.Nos. 1457, 1458, 1456, 1459, 1460 & 1455 of 2018 on the file of Judicial Magistrate No.II, (Fast Track Court-Magisterial Level), Coimbatore, are quashed and accordingly, the Crl.O.P.Nos.1967, 1972, 1973, 1978, 1980 & 1985 of 2019 are dismissed as not maintainable. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Pns

To

Judicial Magistrate No.II,
(Fast Track Court-Magisterial Level),
Coimbatore.

+1cc to Mr.K.Myilsamy, Advocate, S.R.No.57331

Crl.O.P.Nos.1967, 1972, 1973, 1978, 1980 & 1985 of 2019
and
Crl.M.P.Nos.1243, 1247, 1248, 1255, 1260 & 1400 of 2019

KV(CO)
PM/14/12/2021