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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.4728 & 4729 of 2018

and

Crl.M.P.Nos.2323, 2324, 2325 & 2326 of 2018

S.Uma Maheswari

...Petitioner/Accused No.2
in both the petition

Vs.

M/s.Top Thread Mills,
Rep. by its Power of Attorney Holder
K.P.K.Balasubramaniam
S/o.K.P.Krishnan
35, Gajalakshmi theatre Road,
Tirupur.

...Respondent/Complainant in both the petitions

COMMON PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in CC.Nos.87 & 97 of 2017 on the file of the Fast Track Court at Magisterial Level, Tiruppur and quash the same.

For Petitioner :Mr.K.S.Karthik Raja (in both the petition)

For Respondent :Mr.Krishnaraj (in both the petition)
For Mr.Anandaramani

COMMON ORDER

Since the issues involved in both the original petitions are one and the same, they are disposed of by way of common order.

2. The petitioner seeks to quash the proceedings pending against her before the learned Judge, Fast Track Court, Tiruppur in CC.Nos.87 & 97 of 2017 on the file of the Fast Track Court at Magisterial Level, Tiruppur for the offence under Section 138 of Negotiable Instruments Act.

3. It is the case of the complainant that during the course of business transaction between the first accused firm and the



complainant, a series of cheques were issued by the petitioner towards the discharge of credit facilities. When the said cheques were presented before the bank, it was dishonoured for want of 'sufficient funds'. Thereafter, the complainant issued a statutory notice calling upon the accused to honour the payment. Since the accused failed to positively respond to the notice, the present complaint has been preferred and the firm has been arrayed as A.1. The other accused has been arrayed as A2 and the petitioner has been arrayed as A3. Seeking to quash the said proceedings pending before the Fast Track Court, Tiruppur, the present petitions have been filed.

4. Heard the learned counsel on both sides and perused the materials available on record.

5. On a reading of the complaint, it is seen that nowhere it is specifically averred that the present petitioner was involved or in charge of day to day affairs of the firm and the petitioner was instrumentally issuing the cheques. The petitioner has taken a contention that a complainant has mentioned in his complaint that she was working as an Additional Director at the relevant point of time. The said averment is justified on reading the complaint preferred by the respondent. Nowhere in the complaint, the petitioner is specifically complained that the petitioner was discharging her duties as an Additional Director and the petitioner took part in the business transaction between the parties. A reading of the complaint makes it clear that the petitioner was not involved in the day to day affairs of the company. A reading of the complaint would reveal that the dishonoured cheques were issued by the second accused. The complainant himself has admitted that the petitioner has not issued any cheques. That being the case, the petitioner cannot be allowed to undergo the rigor of trial. This Court is not inclined to waste the precious judicial time on a vexatious complaint to be proceeded against the petitioner. Hence, this Court is with no hesitation to quash the proceedings against the petitioner (A3) alone on the file of the Fast Track Court, Tiruppur in CC.Nos.87 & 97 of 2017.

6. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

The Fast Track Court at Magisterial Level,
Tiruppur.

CrI.O.P.Nos.4728 & 4729 of 2018
and
CrI.M.P.Nos.2323, 2324, 2325 & 2326 of 2018

CP (CO)
GMY (01/12/2021)