

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No.21841 of 2018
and
Crl.M.P.No.11964 of 2018

Kavitha Vidhyasagar

.. Petitioner

Vs.

R.Manoharan

.. Respondent

PRAYER: Criminal Original Petition filed under Section 407 of the Code of Criminal Procedure, to transfer the case in C.C.No.220 of 2017 pending on the file of the Fast Track Judicial Magistrate, Tiruppur to transfer with the proceeding along with C.C.No.833 of 2017 pending on the file of the Fast Track Judicial Magistrate – II, Coimbatore which proceeding have been initiated by the respondent for the purporated offence committed by the petitioner under section 138 of N.I.Act.

For Petitioner : Mr.Banu Priya for
Mr.S.Sugendran

ORDER

This Criminal Original Petition has been filed to transfer the case in C.C.No.220 of 2017, pending on the file of the Fast Track Judicial Magistrate, Tiruppur along with C.C.No.833 of 2017 pending on the file of the Fast Track Judicial Magistrate – II, Coimbatore.

2. Facts leading to the present round of litigation is that the petitioner borrowed a sum of Rs.15,00,000/- for her urgent family and business expenses and agreed to repay the interest at the rate of 12% per annum and also executed a promissory note dated 20.08.2015 for a sum of Rs.15,00,000/- in favour of the respondent and she stated that she paid the interest till January 2016 and thereafter on the demand made by the respondent, she issued a cheque dated 20.02.2016 bearing No.379105, drawn on Indian bank, Avinahsilingam, Deemed University Branch, Coimbatore, in favour of the respondent for a sum of Rs.15,00,000/-. However, the said cheque was returned due to "Insufficient funds" on 29.02.2016. Further the respondent has sent a legal notice dated 04.03.2016 to pay the cheque amount within 15 days from the date of receipt of the notice. Though the petitioner has served with notice, no reply was made to

the same. Due to which, the criminal complaint was lodged by the respondent in C.C.No.220 of 2017, on the file of the Fast Track Judicial Magistrate Court, Tirupur.

3. Further more, the petitioner has borrowed a sum of Rs.6,85,000/- for her urgent family expenses and agreeing to repay the interest at the rate of 18% per annum for the amount borrowed and also executed Promissory Note dated 11.01.2014 to that effect. On the repeated request of the respondent, the petitioner has issued another cheque bearing No. 159191, dated 07.03.2016, drawn on Canara Bank, Vellamada Branch, Coimbatore, in favour of the respondent for a sum of Rs.9,00,000/-. However, the said cheque also dishonored for the reason "Funds Insufficient" on 07.03.2016. Thereafter, the respondent has sent a legal notice dated 20.03.2016 to pay the cheque amount within 15 days from the date of receipt of the notice. Though the petitioner has received the legal notice, he did not reply the same and hence the respondent has filed the complaint in C.C.No.833 of 2017, pending on the file of the Judicial Magistrate Court II, Coimbatore.

4. The learned counsel appearing for the petitioner submitted that since the issues involve adjudication on similar facts of nature and further in view of the fact that both the petitioner and respondent are living at Coimbatore District and the petitioner is a lady aged about 46 years, prays this Court to transfer the case pending in the Trial Court, Tirupur District along the case pending before the Trial Court in Coimbatore District.

5. Though the notice was served on the respondent, till date there is no appearance on behalf of him. However, considering the facts and circumstances of the case, it appears that the request made by the petitioner is genuine one and therefore, this Court is inclined to dispose of the matter.

6. This Court has perused the complaints in C.C.No.220/2017 and C.C.No.833/2017. Though the address of the complaint / respondent in C.C.No.220 of 2017, is shown as No.510, Palladam Raod, Tiruppur, a perusal of the complaint in C.C.No.833 of 2017, reveals that the complainant is having residential address at Door No.54-A, Mettupalayam Road, Coimbatore. Therefore, the relief as sought for by the petitioner to

transfer the case along with the case pending before the Trial Court, Coimbatore District, would not cause prejudice to the respondent. Therefore, this Court is inclined to transfer the case on the file of the Trial Court, Tiruppur District along with the case pending on the file of the Trial Court, Coimbatore District.

7. This Criminal Original Petition is allowed and this Court is transferring the case in C.C.No.220 of 2017, pending on the file of the Fast Track Judicial Magistrate, Tiruppur, along with the case in C.C.No.833 of 2017, pending on the file of the Fast Track Judicial Magistrate – II, Coimbatore. Consequently connected miscellaneous petition is closed.

25.08.2021

Speaking/Non Speaking order

Index : Yes/No

Internet: Yes/No

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M.DHANDAPANI,J.
Sk

To

1. The Fast Track Judicial Magistrate, Tiruppur.
2. The Judicial Magistrate – II, Coimbatore.
3. The Public Prosecutor,
High Court, Madras.



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