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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.13751 of 2021 and
Crl.M.P.No.7512 of 2021

R.Rathina ... Petitioner

Versus

V.Sivakumar ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the order dated 05.04.2021 passed by Judicial Magistrate No.I, Chengalpattu in C.M.P.No.404 of 2021 in C.C.No.162 of 2014 and to set aside the same by allowing this criminal original petition.

For Petitioner : Mr.R.Thirumoorthy

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ORDER

This Criminal Original Petition has been filed to set aside the order, dated 05.04.2021, passed by the Judicial Magistrate No.I, Chengalpet in C.M.P.No.404 of 2021 in C.C.No.162 of 2014.

2.The learned counsel for the petitioner submitted that the respondent/complainant has got no source of income to lend a loan of Rs.10,00,000/- to the petitioner. The respondent in his cross examination admitted that he is a milk vendor and even after extending the loan to the petitioner, he was continuously vending milk to her. On 01.12.2013, there was some dispute between the respondent and one Vajiravel, who is none other than brother-in-law of the petitioner. The respondent had trespassed into Saravana Fruit Shop belongs to Vajiravel and damaged the shop, at that time the respondent had taken the cheque from the shop which was given by the petitioner. This cheque had been misused by the respondent and presented the same for collection. The respondent/complainant in his cross examination admitted that he had some transaction with Vajiravel and they have also not in good terms. Since the petitioner is close to Vajiravel, to brook vengeance a false complaint has been lodged against her. On perusal of the evidence of the respondent and his cross

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examination, the case of the petitioner is that the respondent has got no source of income to lend Rs.10,00,000/- as loan. The blank cheque was given to Vajiravel by the petitioner when she borrowing loan of Rs.25,000/-. It is admitted by the witnesses sofar examined that the signature and the writings found in the disputed cheque are different, which would clearly establish the defence of the petitioner that the cheque has been filled up by the respondent. Hence, the petitioner filed a petition under Section 91 Cr.P.C., to summon the loan document. The trial Court without considering the petition on merits, dismissed the same by order, dated 05.04.201. Hence, he prayed for setting aside the order of the trial Court.

3.It is seen that the respondent/complainant admitted about the role played by Vajiravelu, brother-in-law of the petitioner in the above transactions. From the petition filed under Section 91 Cr.P.C., before the trial Court, there is no mention about the loan particulars, principle amount and even the branch of Karur Vysya Bank are not mentioned.

4.In view of the above, the order dated 05.04.2021 passed by the Judicial Magistrate No.I, Chengalpattu in C.M.P.No.404 of 2021 in C.C.No.162 of 2014 is confirmed and accordingly, this Criminal Original Petition is dismissed.

5.The petitioner is at liberty to examine the said Vajiravel as defence witness in this case or the petitioner to examine himself as defence witness under Section 315 Cr.P.C., to putforth his defense. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate Court No.I,
Chengalpet.

2.The Chief Judicial Magistrate,
Chengalpattu.

CRL.O.P.No.13751 of 2021

SSI(CO)
CB(17/09/2021)

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