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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.22890 OF 2017

&

CRL.M.P.NO.13349 OF 2017

S.Parvathi

... Petitioner/Accused

.Vs.

S.Ram Kumar

... Respondent/Complainant

PRAYER:-

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the S.T.C.No.2157 of 2016 on the file of the learned Judicial Magistrate No.V, Salem and quash the same.

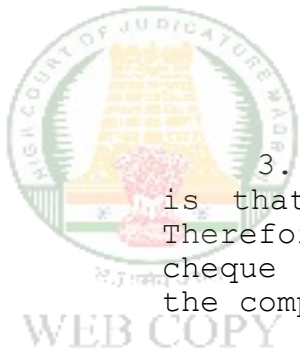
For petitioner : Mr.M.Guru Prasad

For Respondent : Mr.V.Sekar

O R D E R

This petition has been filed to quash the proceedings initiated in S.T.C.No.2157 of 2016 on the file of the learned Judicial Magistrate No.V, Salem for the offence against the petitioner under Section 138 of the Negotiable Instruments Act.

2. The crux of the defacto complainant is that he had delivered the Tata Hitachi to the accused. For which, the accused agreed to pay the rent for a sum of Rs.1,20,000/- per month. However, the rent has not been paid and there was a due about Rs.7,23,320/- as on 05.03.2015. The second accused issued a cheque dated 28.10.2016 and when the same was presented for encashment, it was dishonored for the reasons insufficient funds and after causing statutory notice, the present proceedings has been initiated.



3. The contention of the learned Counsel for the petitioner is that only the second respondent was authorized signatory. Therefore, the second accused is the authorized signatory of the cheque and the third accused is not in charge of the affairs of the company. Therefore, she cannot be prosecuted.

4. As per the Articles of Association, only the second accused is authorized signatory whereas the second respondent contended that the present petitioner is also actively participated and negotiated and even the Articles of Association also indicate the same.

5. When the necessary averments have already been made implicating the accused in the complaint whether the petitioner was not in charge of the affairs of the company or not has to be seen only during the trial. There are sufficient averments made against the petitioner. In such view of the matter, I do not find any merits in the case.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed. The lower Court shall dispose of the main matter expeditiously.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vrc/kbs

To

The Judicial Magistrate No.V,
Salem.

CRL.O.P.NO.22890 OF 2017 &
CRL.M.P.NO.13349 OF 2017

GPL (CO)
PBS/21/12/2021