



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 25.11.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 25396 of 2017
and Crl.M.P.Nos.14627 and 14628 of 2017

Thilagavathi

...Petitioner/Accused

Versus

Selvaraj

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the complaint in S.T.C.No.4233 of 2017 pending on the file of the Judicial Magistrate No.II, Pollachi, filed under Sec.200 of Crl.P.C. r./w Section 138, of Negotiable Instruments Act 1881 dated 24.08.2017 and quash the same.

For Petitioner : Mr.R.Marudhachalamurthy
For Respondent : Mr.N.Ponraj

ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings in S.T.C.No.4233 of 2017 pending on the file of the Judicial Magistrate No.II, Pollachi.

2.The only ground raised in this case is that the de facto complainant has not filed any proof to show that he was the partner of M/s.Nellai Finance. The main contention of the learned counsel for the petitioner is that there is no jural relationship between the accused and the de facto complainant, therefore, the offence under Section 138 is not maintainable.

3.Heard the learned counsel on either side and perused the materials available on record.

4.At the outset, I am not in agreement with the submissions of the learned counsel appearing for the petitioner, as the very complaint itself is filed as if he is the partner of M/s.Nellai Finance. Whether he is a partner or not



has to be seen only in the evidence and the trial Court will decide it. This Court cannot conduct a roving enquiry in such matters. Proof and discharge relating to Negotiable Instruments Act is covered by Special Act and Special Provisions like Sections 118 and 139 of Negotiable Instruments Act. Therefore, the same has to be tested only before the Trial Court. This Court is not inclined to quash the proceedings at this stage.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

6. The petitioner/accused is directed to appear before the trial Court within two weeks from the date of receipt of a copy of this order and file an application under Section 436 of Code of Criminal Procedure. On such filing of the application, the trial Court is directed to release the petitioner on bail on the same day on she executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties. If thereafter, she absconds, a fresh FIR can be registered under Section 229-A of the Indian Penal Code.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

psa/mkn
To

The Judicial Magistrate No.II,
Pollachi.

+1 CC to Mr.R.Marudhachalamurthy, Advocate sr 61621.

Cr1. O.P. No. 25396 of 2017

CA(CO)
SP(22/12/2021)