IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.12.2021

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.27472 of 2017 &
Crl.M.P.Noss.15701 & 15702 of 2017

R.Selvalatha ... Petitioner

Vs

M/s. Bajaj Finance Ltd.,
Having Office at Unit No.804, 805 & 806
8th Floor, Delta Wing, Raheja Towers,
177, Anna Salai, Chennai - 600 002
Rep. by its Authorized Signatory
Mr.S.Saravanabhavan ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for records relating to C.C.No.4934 of 2016 pending on the file of the learned Metropolitan Magistrate No.XIII, Egmore, Chennai and to quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.D.Lakshmipathy

For Respondent : Mr.M.Ajmal Azzath

O R D E R

This petition has been filed to quash the private complaint filed in C.C.No.4934 of 2016 pending on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai for the offence under section 138 of Negotiable Instruments Act.

2. The main ground on which this petition has been filed is that the respondent has not sanctioned any loan facility to the petitioner vide account No.403PSB08037368 on 25.02.2015 as per the terms and conditions and the documents executed by the accused. The accused had issued a mandate on 22.04.2016 of the complainant bank namely ICICI Bank for a sum of Rs.1,81,720/-. However, the same was dishonoured with an endorsement of insufficient funds. After issuing legal notice, a complaint has been initiated which is sought to be quashed only on the ground that the petitioner is no way connected with the said Selva Latha Industries. It is the contention of the learned counsel appearing for the petitioner that the husband of the petitioner is the proprietor of the said concern. Therefore, prosecution against the petitioner is not maintainable in the eye of law.

In support of his contention, the learned counsel appearing for the petitioner drew the attention of this Court to the certificate issued by the City Union Bank, Iyappakkam Branch indicating that the account relate to Selvalatha Industries and the account is being operated by one Rajavelu.

3. This Court is unable to countenance the submission of the learned counsel for the petitioner. Merely because some certificate has been produced before the Court, the same cannot be taken as a proof without being proved as per law. Further, these are all matter of evidence and the contention of the petitioner has to be proved before the trial Court not by way of filing mere an affidavit or typed set before this Court. In such view of the matter, as the factual aspects have been raised by the petitioner, it is for the petitioner to establish the same before the trial Court. Hence, I do not find any merits in the petition filed to quash the proceedings.

4. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed. The 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, trial Court is directed to release the accused on bail on the same day on executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties. If thereafter, he absconds, a fresh FIR can be registered under Section 229 A of the Indian Penal Code.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vrc/kbs
To
1. The XIII Metropolitan Magistrate,
Egmore, Chennai.

2. -do thro The Chief Metropolitan Magistrate,

Egmore,Chennai.

+2cc to Mr.M.Ajmal Azzath, Advocate, S.R.No.62771 (04/01/2022)

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RGN(CO)
CT/14/12/2021