



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2021

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CrI. O.P. No.19177 of 2017

&

CrI.M.P.Nos.11629 and 11630 of 2017

Nathikarani

...Petitioner

Versus

S.Sivakumar

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.129 of 2017 on the file of Judicial Magistrate No.1 at Mettur.

For Petitioner ... Mr.K.Myilsamy

For Respondent ... Mr.V.Sekar

O R D E R

This petition has been filed to quash the proceedings in C.C.No.129 of 2017 pending on the file of Judicial Magistrate I, Mettur for the offence under Section 138 of the Negotiable Instruments Act.

2. Heard the learned counsel for petitioner and learned counsel appearing for the respondent.

3. The learned counsel for the petitioner submits that the petitioner has not borrowed any amount from the respondent and therefore, she is not liable to pay any amount to the respondent. It is further submitted that even assuming that the case of the petitioner is true, the petitioner is not liable to be prosecuted under Section 138 of the Negotiable Instruments Act, as she has not issued any cheque to the respondent.

4. This Court is of the view that whether there is a legally enforceable debt or not, cannot be gone into at this stage and it is for the petitioner to raise all the defence before the trial Court and prove preponderance of probabilities in favour of her case. Accordingly, this criminal original petition is



dismissed. The personal appearance of the petitioner before the trial Court is dispensed with except for receiving papers and answering the questions etc., and whenever the trial Court directs her to appear before it, the petitioner should appear before the trial Court.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Judicial Magistrate No.1
Mettur.

2. Do Thro The Chief Judicial Magistrate,
Salem District.

+1cc to Mr.K.Myilsamy, Advocate, S.R.No.58440

+1cc to Mr.V.Sekar, Advocate, S.R.No.58294

Cr1. O.P. No.19177 of 2017 &
Cr1.M.P.Nos.11629 and 11630 of 2017

EV(CO)
RGA(26/11/2021)