



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

WEB COPY

Crl.O.P.(MD)No.134 of 2019

and

Crl.MP(MD)No.42 of 2019

Chitra : Petitioner/Accused No.2
Vs.
P.John Ravi : Respondent/ Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to quash the STC No.536 of 2015 on the file of the Fast Track Court No.1, (Judicial Magistrate Level), Madurai, as against the petitioner/Concerned.

For Petitioner : Mr.A.Jayaramachandran

For Respondent : Mr.S.T.Sasidharan Tamil Kani

O R D E R

This petition is filed to quash the proceedings in STC No.536 of 2015 on the file of the Fast Track Court No.1, (Judicial Magistrate Level), Madurai, as against this petitioner/A2, thereby taken cognizance of the offences under sections 138 and 142 of the Negotiable Instruments Act.

2.The learned counsel appearing for the petitioner/A2 would submit that the petitioner/A2 is an innocent lady and she has not committed any offence as alleged by the respondent. Without any basis, it has been taken cognizance in STC No.536 of 2015 on the file of the Fast Track Court No.1, (Judicial Magistrate Level), Madurai, as against this petitioner/A2.

3.Heard both sides.

4.The only ground on which this petition came to be filed by the petitioner is that the petitioner is not a drawer of the disputed cheque. It is also admitted by the respondent herein. But however, the respondent would submit that this petitioner also filed a discharge application in Crl.MP No.38 of 2018 before the trial court, during the pendency of this petition and that came to be dismissed by the trial court and against which, no revision has been preferred. According to the respondent, since this petitioner has already exercised her right before the trial court, she cannot file this petition by invoking the jurisdiction of 482 Cr.P.C.



5.No doubt, there is an order passed by the trial court rejecting the contention of the petitioner. It is also true that there is a long delay in approaching the petitioner to this court. The trial proceedings are almost over and it is posted for argument. At this stage, this petition came to be filed by this petitioner. Further, the reason for the delay in approaching the court has been put as a question to the learned counsel for the petitioner, for that, he was not in a position to give proper response. However, it would say that even though, there is a delay on the part of the petitioner to approach the court, it would not take away the legal right, which is available to her.

6.It is settled proposition of law that only the signatory to the cheque can be proceeded and held liable. So in the absence of any other specific allegation that this petitioner is also signed in the cheque as drawer, the question of implicating this petitioner for the offence under sections 138 and 142 of the NI Act is completely out of place. So this petition is liable to allowed.

7.Accordingly this Criminal Original Petition is **allowed**. The proceedings in STC No.536 of 2015 on the file of the Fast Track Court No.1, (Judicial Magistrate Level), Madurai, as against this petitioner/A2 is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO:

1.The Fast Track Court No.1, (Judicial Magistrate Level), Madurai.

+1 CC to M/s.S.T.SASIDHARAN TAMILKANI, Advocate (SR-30921[F] dated 01/10/2021)

Crl.OP(MD)No.134 of 2019
30.09.2021