



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.19593 of 2021

and

Crl.M.P. (MD)Nos.10938 & 10940 of 2021

Santhadevi

... Petitioner / Sole Accused

Vs

S.Vivekanandan

... Respondent / Defacto complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records in C.C.No.552 of 2018 on the file of the learned Judicial Magistrate No.II, Dindigul and quash the proceedings as against the petitioner.

For Petitioner : Mr.L.Prabhu

ORDER

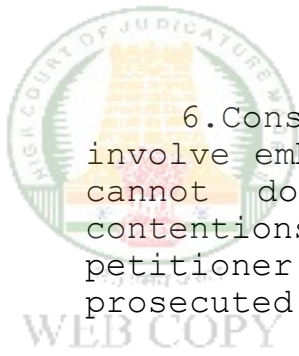
Heard the learned counsel for the petitioner.

2. This Criminal Original Petition has been filed to quash the impugned proceedings in C.C.No.552 of 2018 on the file of the Judicial Magistrate No.II, Dindigul.

3. It is a private complaint instituted by the respondent herein for the offence under Section 138 of the Negotiable Instruments Act.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds. He pointed out that even before filing the impugned complaint, the petitioner has been implicated as an accused in Crime No.14 of 2018 registered on 21.06.2018 wherein the petitioner is figuring as the first accused.

5. The learned counsel appearing for the petitioner took me through the statement recorded under Section 161 of Cr.P.C. It is pointed out that the version projected in the impugned complaint is clearly improbable. He also would state that there is no enforceable liability on the part of the petitioner herein. The petitioner's counsel's contentions are no doubt persuasive and attractive. But the forum to prove the same is before the trial Court. The petitioner has to necessarily establish her innocence only in the trial.



6.Consideration of the petitioner's counsel's contentions would involve embarking a factual probe. Under Section 482 of Cr.P.C., I cannot do so. Leaving open the petitioner's defences and contentions, this Criminal Original Petition stands dismissed. The petitioner is a lady aged about 55 years. She is already been prosecuted in another case.

7. Taking note of the overall facts and circumstances, the personal appearance of the petitioner before the court below is dispensed with. The learned trial Magistrate shall insist on the personal appearance of the petitioner only when it is absolutely necessary and imperative. The petitioner shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the petitioner can be represented through her counsel. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

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

The Judicial Magistrate No.II,
Dindigul.

+1 CC to M/s.L.PRABHU, Advocate (SR-38654[F] dated 14/12/2021)

Crl.O.P(MD)No.19593 of 2021

10.12.2021

NSN(CO)

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