



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2022

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.10152 of 2019
and
Crl.M.P.No.5256 of 2019

J.Lavanya

..Petitioner/Accused

Vs.

M/s.Arvind Saraf and Sons HUF,
Represented by Kartha,
Mr.Arvind Saraf,
Represented by his Power of Agent,
Mr.Rajendra Kumar,
New.No.29 (Old No.13/2),
MC Road, Old Washermen pet,
Chennai-600 021.

..Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 27.12.2018 passed in Crl.M.P.No.11183 of 2018 in C.C.No.938 of 2017 passed by the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai-1 and allow the Crl.M.P.No.11183 of 2018 in C.C.No.938 of 2017.

For Petitioner : No appearance

For Respondent : No appearance

O R D E R

There is no representation for the petitioner.

2.The perusal of the petition indicates that the petitioner is facing a criminal complaint under Section 138 of Negotiable Instruments Act.

3.Perusing to the private complaint made by the respondent/ M/s.Arvind Saraf and Sons HUF, represented by its Kartha, it is seen that a petition has been filed under Section 91 of Cr.P.C., to direct the respondent/complainant to produce the following documents.

“(i)Account of the petitioner/Accused maintained by the Complainant.

(ii)Profit and Loss account of the



Complainant which has been filed before the Income Tax authorities.

(iii) Audited Balance Sheet of the Complainant."

The said application was dismissed on 27.12.2018 against which this Criminal Original Petition is filed.

4. Perusal of the impugned order indicates that the trial Court, applying the principal laid down by the Hon'ble High Court in Alagesan and others Vs. State reported in (2008) CrI.L.J 3300, has held that the petition filed for production of Account Statement, I.T Return and profit / loss statements of the complainant to establish the defence that the accused had no business contact with the complainant. This petition has been filed after PW.1 has subjected himself for examination and PW.1/Complainant has categorically stated that the cheque was given as a loan and nothing to do with the business transaction of the complainant HUF. Therefore, the documents sought for has no relevancy for the purpose of rebutting the presumption. The accused can lead evidence and rebut the same.

5. This Court on considering the reasons given in the impugned order finds that there is no error or illegality. It is always open to the petitioner / accused to lead evidence to show that this cheque was not issued by her to the complainant for any legally enforceable debt. Calling for production of irrelevant document will only delay the process and not for the interest of justice. Therefore, this Court finds no reason to interfere with the considered order of the trial Court and hence this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpl

To

The Metropolitan Magistrate,
Fast Track Court-IV,
George Town, Chennai-1.

CrI.O.P.No.10152 of 2019
and CrI.M.P.No.5256 of 2019

SR(CO)
RGA(07/07/2022)