



Crl.O.P.No.15362 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2022

CORAM

THE HON'BLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.15362 of 2019

and

Crl.M.P.No.7563 of 2019

Mrs.V.Saroja

... Petitioner /Accused

-Vs.-

M/s.Reliance Commercial Finance Pvt Ltd.,
[Formerly known as Reliance Capital Ltd.],
Represented by its Deputy Manager R.Kumaran]
No.5, Haddows Road, Nungambakkam
Chennai 600 006

...Respondent / Complainant

Prayer :- Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to call for the records pertaining to the case in C.C.No.10693 of 2018 on the file of Hon'ble Fast Track Court No.III Metropolitan Magistrate at Saidapet, Chennai.

For Petitioner : Mr.G.Arun

For Respondent : Mr.K.B.Vivekanandan



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ORDER

No representation for the petitioner. This petition is filed to quash the criminal complaint instituted for an offence under Section 138 of Negotiable Instrument Act.

2. The case of the complainant is that the petitioner / accused approached the complainant for loan to purchase Auto and entered into an hire purchase agreement. To discharge loan as part payment, a cheque for Rs.48728/- was issued on 20.08.2018. On presentation of the cheque, the same got returned as “Insufficient Funds”. Hence, the criminal complaint after causing statutory notice. In the quash petition, it is contended that the cheque is not given for legally enforceable debt. Subsequent to the legal notice dated 14.09.2018, the petitioner has paid the vehicle loan by depositing a sum of Rs.1,50,800/- by way of cash and the hire purchase agreement got terminated. Despite the said fact, the cheque given as security has been presented and criminal complaint has been tried. On persuing the petition and the averments, this Court does



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not find any material to indicate that the petitioner has paid a sum of Rs.1,50,800/- to discharge the hire purchase loan amount. In the said circumstances, the fact whether the cheque was issued for enforceable debt or not being a disputed fact to be established before the Trial Court. The matter cannot be quashed by invoking Section 482 of Cr.PC. Hence, this Criminal Original petition is dismissed. It is left open to the petitioner to canvass the defence raised in this quash petition before the Trial Court by letting evidence. Consequently, the connected miscellaneous petition is closed.

27.09.2022

Speaking/Non-speaking order

Index: Yes/No

Internet : Yes/No

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To

1. The Fast Track Court No.III Metropolitan Magistrate at Saidapet,
Chennai
- 2.The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

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