



Crl.OP.No.16008 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.16008 of 2022

in

Crl.M.P.Nos.9059 & 9061 of 2022

Tamilselvi

.. Petitioner

Vs.

Bhuvaneshwari
Respondent

..

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records pertaining to the complaint filed by the respondent in C.C.No.501 of 2021 on the file of the Court of the Fast Track Judicial Magistrate No.II, Coimbatore and quash the same.

For Petitioner : Mr.J.Hariharan

ORDER

This Criminal Original Petition has been filed challenging the C.C.No.501 of 2021, pending on the file of the learned Fast Track Judicial Magistrate No.II, Coimbatore and consequently, quash the same.



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2. The allegations against the accused is that she has borrowed a sum of Rs. 3,00,000/- from the defacto complainant and a cheque was issued for returning the amount. When presented, the said cheque was dishonoured. Hence, the impugned complaint for the offence under Section 138 of the Negotiable Instruments Act, 1881.

3. It is the contention of the learned counsel for the petitioner that the defacto complainant do not have documentary proof that the petitioner has borrowed such amount. Hence, pleaded to quash this complaint.

4. Heard both sides and perused the materials placed on record. The grounds that have been raised by the learned counsel for the petitioner is purely factual in nature and this Court cannot go into the same and conduct roving enquiry while exercising its jurisdiction under Section 482 of Cr.P.C. It is left open to the petitioner to raise all his defence before the trial Court and the Court below shall consider the same on its own merits and in accordance with law.

5. At this stage, the learned counsel for the petitioner sought indulgence of the Court, to dispense with the personal appearance of the petitioner.



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6. Accordingly, this Criminal Original Petition is dismissed with a direction to the Court below to complete the proceedings, within a period of six months from the date of receipt of a copy of this order. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in *Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]*. If the petitioner adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioner and remand him to custody as per the judgment of the Hon'ble Supreme Court in *STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191)*. In view of the submissions of the learned counsel for the petitioner, the personal appearance of the petitioner is dispensed with except for receiving copies, for answering the charges, for questioning under section 313 Cr.P.C. and any other dates fixed by the trial Court. Consequently, connected miscellaneous petitions are also closed.

12.07.2022

dhk



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N. SATHISH KUMAR, J.

dhk

To

1.The Fast Track Judicial Magistrate-II
Coimbatore

2.The Public Prosecutor
High Court of Madras.

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