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CrI.O.P.No.17079 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

CORAM

THE HON'BLE **Dr.JUSTICE G.JAYACHANDRAN**

CrI.O.P.No.17079 of 2019

and

CrI.M.P.No.8607 of 2019

Kalpana Subramaniam

... Petitioner

Vs.

Bhagwandas Bajaj

... Respondent

Prayer:- Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records and quash the proceedings in C.C.No.5619 of 2019 on the file of the learned Fast Track Court-III Metropolitan Magistrate, Saidapet, Chennai-600 015.

For Petitioner : Mr.K.Murugan

For Respondent : No appearance

ORDER

It is a petition to quash the criminal complaint initiated under Section 138 of Negotiable Instruments Act on the ground that the petitioner, who is arrayed as the 3rd accused describing as a Director of the company, has issued a cheque after retirement from the Directorship as



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early as 1998 and therefore, she cannot be held liable for the cheque that has been issued on behalf of the company on 09.08.2016.

2. However, on perusal of the complaint as well as the documents, it appears that when the statutory notice dated 24.08.2016 was issued to this petitioner, the same has been received by her husband who is also one of the accused in the complaint. The complainant was not informed about her retirement by way of reply notice. She has not informed the retirement prior to the issuance of the cheque and her husband who received the notice has not even sent any reply denying the liability whether the retirement of petitioner is prior to the issuance of the cheque, which is a disputed fact, that has to be proved in the course of trial.

3. However, on reading the complaint in entirety except to the sentence that the accused 2 to 5 are the Directors of the company and they were in need of financial assistance and for that purpose, 2 to 4 accused approached the complainant for finance. There is no specific averments against this petitioner as to how she is responsible for the affairs of the



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company and no specific averments against this petitioner are made in the complaint to the effect that at the time the offence, the petitioner was incharge and was responsible for the company or the conduct of the business of such specific averments. No other persons except the signatory of the cheque on behalf of the company can be held vicarious liability.

4. On the said ground, this Court is of the view that the Criminal Original Petition should be allowed. The complaint as against this petitioner who is arrayed as A3 without any indication how she is responsible to the affairs of the company to be held vicarious liable.

5. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Criminal Misellaneous Petition is also closed.

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Index: Yes/No
Speaking Order/Non Speaking Order



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Dr.G.JAYACHANDRAN, J.

rpl

To

The Fast Track Court-III Metropolitan Magistrate,
Saidapet,
Chennai-600 015.

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01.11.2022