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CRL.O.P.Nos.26388 & 26385 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl. O.P. Nos.26388 & 26385 of 2022
and Crl.M.P. Nos.16285, 16286, 16289 & 16291 of 2022

Anusuya ... Petitioner in both Crl.OPs

Versus

Gounabouchany ... 1stRespondent /Complainant
in Crl.OP.No.26388/2022

Chokkalingam ... 1stRespondent /Complainant
in Crl.OP.No.26385/2022

Sethuraman ... 2nd Respondent /third party
in both Crl.OPs

Common Prayer: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure to call for the records pertaining to the S.T.C.Nos.1278/2021 & 743/2022 repectively, on the file of the Judicial Magistrate No.II, Puducherry and quash the same.



CRL.O.P.Nos.26388 & 26385 of 2022

In both Crl.OPs
For Petitioner : Mr.G.Chandrasekar

COMMON ORDER

The Criminal Original Petitions have been filed to call for the records pertaining to the S.T.C.Nos.1278/2021 & 743/2022 respectively, on the file of the Judicial Magistrate No.II, Puducherry and quash the same.

2.The petitioner is the accused against whom the second respondent has filed a complaint under the Negotiable Instruments Act,1881 for dishonor of cheques and the same has been taken on file in S.T.C.Nos.1278/2021 & 743/2022.

3.The learned counsel for the petitioner submitted that the impugned cheque was not issued by the petitioner in her capacity as proprietor of Vikram Agencies. According to the information obtained by the petitioner from Bharath Petroleum Corporation, M/s.Vikram



Agencies is a partnership firm comprising the petitioner and her son Vaidhyanathan.

4. On perusal of the records, it is seen that the impugned cheque has got a seal of 'Vikram Agencies' and contains the signature of the petitioner as 'Proprietor'. The petitioner denies her acknowledgment about the existence of the account in the name of 'Vikram Agencies' itself.

5. The main contentions made by the learned counsel for the petitioner is that the return memo was issued to one Karthigeyane Ranga and that the complaint is barred by limitation.

6. It is seen that the said Karthigeyane Ranga is the husband of the *defacto* complainant. Hence, the possibility of giving authentication to him by the *defacto* complainant to receive return memo can not be ignored.



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7. In the petition filed by the second respondent, he has stated about the exclusion of the limitation period due to Covid, in view of the order of the Hon'ble Supreme Court made in *Miscellaneous Application No.665 of 2021 in SMW(C) No.3 of 2020*. The rest of the facts alleged by the petitioner would require a detailed analysis and that cannot be done at the threshold stage. Since the petitioner is entitled to agitate all her points in defense during the trial, I feel that it is appropriate on the part of the petitioner to participate in the trial.

This is not a complaint which is bald or bereft of material particulars so as to make out a *prima facie* case for an offense under section 138 of NI Act.

In view of the above stated reasons, the Criminal Original Petitions are **dismissed**. Consequently, connected miscellaneous petitions are dismissed.

02.11.2022



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Index: Yes/No
jrs

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To:

The Judicial Magistrate No.II,
Puducherry



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CRL.O.P.Nos.26388 & 26385 of 2022

R.N.MANJULA, J.,

jrs

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