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Crl.O.P.No.24018 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE V. SIVAGNANAM

Crl.O.P.No.24018 of 2022
and Crl.MP.No.15247 of 2022

Chandra

... Petitioner

Vs.

Balasubramaniam

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.80 of 2022 on the file of the Fast Track Court Judicial Magistrate, Thiruvannamalai and quash the same as illegal, incompetent and without jurisdiction.

For Petitioner : Mr.V.Raghavachari

ORDER

This criminal original petition has been filed to call for the records in C.C.No.80 of 2022 on the file of the (Fast Track Court) Judicial Magistrate, Tiruvannamalai and quash the same.

2. The learned counsel for the petitioner submitted that the petitioner is the mother-in-law and the respondent's daughter is the daughter-in-law of



the petitioner. There was a marriage dispute between the petitioner's son and the respondent's daughter. Since the marriage broke down, they entered into settlement by way of memorandum of understanding dated 14.03.2022. In pursuance of the Memorandum of Understanding, the petitioner gave the disputed cheque and the same was returned. Hence the respondent had filed a complaint against the petitioner herein for dishonour of cheque under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate (Fast Track Court), Thiruvannamalai and now it is under challenge. He further submitted that in the Memorandum of Understanding at Paragraph No.5 it is stated that the first instalment of Rs.5 lakhs will be paid on 17.03.2022 on the signing of the mutual consent divorce petition. Since the consent divorce petition has not been signed, the offence of dishonour of cheque would not arise and the criminal proceeding against the petitioner needs to be quashed.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. On perusal of the records, it is seen that the petitioner is the mother-in-law of Sindhuja who is the daughter of the respondent and the marriage



held between the Sindhuja and the petitioner's son namely Rajkannan on 06.11.2020 broke down for some reason. Hence the wife Sindhuja filed a divorce petition against her husband Rajkannan and her in-laws in DVC.No.10 of 2021 before the District Munsif cum Judicial Magistrate Court, Thandarampattu, Thiruvannamalai district. Thereafter they entered into memorandum of understanding on 14.03.2022. In the memorandum of understanding, the parties agreed to the conditions mentioned at Paragraphs No.1 to 10. On perusal of the Memorandum of Understanding at Paragraph No.5, it is clearly admitted that the husband has received Rs.37 lakhs during the marriage as Sridhana and that amount was agreed to repay in instalments as mentioned in the memorandum of understanding. One of the cheque when it was deposited for collection the same was returned as “funds insufficient”, it shows that the petitioner is not able to honour as per the promise and failed to repay the amount received during marriage as Sridhana. Believing the memorandum of understanding, the wife honoured and withdrawn the DVC No.10 of 2021 but the husband failed to honour his promise and did not return the amount of Rs.37 lakhs received during the marriage as Sridhana from the wife.

5. Under these circumstances, the learned counsel for the petitioner



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pleaded to quash the criminal proceedings against the petitioner. The factual

dispute arise is that whether Rs.37 lakhs as stated in paragraph No.5 of the memorandum of understanding was given by the wife side at the time of marriage as Sridhana or as a compensation to settle the marriage dispute between the parties. Therefore trial has to be commenced and the dispute has to be adjudicated by let in evidence. Therefore, it is not proper to quash the criminal proceedings before commencement of the criminal proceedings and it does not meet the parameters laid down by the Supreme Court in ***State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604), M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others (2021 SCC online 315) & PRATIBHA RANI Vs.SURAJ KUMAR & ANR (1985 Crl.L.J.817)***. Therefore, it is inappropriate to quash the C.C.No.80 of 2022 on the file (Fast Track Court) Judicial Magistrate, Thiruvannamalai. Hence, I find no merit in this petition and the same is liable to be dismissed.

6. Accordingly, the criminal original petition stands dismissed.

Consequently, connected miscellaneous petitions is also closed.

10.10.2022

Internet:Yes

Speaking/Non speaking order

dpq



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To

1. The learned (Fast Track Court)
Judicial Magistrate, Thiruvannamalai
2. The Public Prosecutor,
High Court of Madras.



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V. SIVAGNANAM, J.

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