



CrI.O.P.No.27748 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.No.27748 of 2022 and

CrI.M.P.No.17061 of 2022

Bhuvaneshwari

... Petitioner

Vs.

P.Kanthasamy

... Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in C.C.No.116 of 2021 on the file of Fast Track Judicial Magistrate-I, Coimbatore and quash the same.

For Petitioner

: Mr.R.Subramaniyan

ORDER

This petition has been filed to quash the case in C.C.No.116 of 2021 pending on the file of Judicial Magistrate No.1, Fast Track Judicial Magistrate-I, Coimbatore.

2. The learned counsel for the petitioner submitted that the petitioner had purchased a land for a valuable consideration and thereafter, she sold



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the property to one Uma. He further submitted that the above said uma, sold a portion of the property to the respondent/complainant and in that sale transaction, dispute arose between them and the petitioner is no way connected with the sale transaction between them. However, the complainant made false allegations against the petitioner that without any title over the property, she sold the property to the said Uma, who in turn sold it to the complainant. Subsequently, under threat and force and undue influence, the respondent obtained a cheque dated 07.01.2019 to the tune of Rs.35,00,000/- from the petitioner and allowed it to get dishonour and based on that, he filed a private complaint under Section 138 of Negotiable Instruments Act against the petitioner. Therefore, the above case in C.C.No.116 of 021 is liable to quashed.

3. A perusal of the records shows that the respondent/ complainant filed a private complaint against the petitioner stating that the petitioner gave a cheque bearing No.000139 dated 07.01.2019 drawn on Karur Vysya Bank, Vadavalli Branch, Coimbatore for a sum of Rs.35,00,000/- towards the market value of the property and subsequently, on her instruction, he



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presented it for collection, but the cheque was returned with an endorsement "Funds insufficient". Therefore, after issuing statutory notice to the petitioner, he filed the private complaint.

4. According to the petitioner, the above said cheque was obtained by the complaint/respondent from the petitioner under threat and force and the petitioner is no way connected with the sale transaction between him and one Uma, as alleged by him and hence, the case in C.C.No.116 of 2021 has to be quashed.

5. 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. Since the learned Magistrate satisfied with the prima facie, the case has to be adjudicated by letting out the evidence and it is for the petitioner to raise all her defence before the trial Court. Therefore, it is inappropriate to quash the proceedings in C.C.No.39 of 2022 and it does not meet the parameters laid down by the Supreme Court in *State of Haryana*



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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). As

such, I find no merit in this petition.

6. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Criminal Miscellaneous Petitions are closed.

16.11.2022

Index: Yes/No

mst

To

Judicial Magistrate No.1,
Fast Track Judicial Magistrate-I,
Coimbatore.



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V.SIVAGNANAM, J.

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