



WEB COPY



Crl.O.P.No.30076 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.30076 of 2022
and
Crl.M.P.Nos.18429 and 18430 of 2022

Devi

... Petitioner

Vs.

Malathi

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to quash the S.T.C.No.423 of 2022 pending on the file of Judicial Magistrate Court No.I at Tindivanam.

For Petitioner : Mr.K.Rajendiran

ORDER

This Criminal Original Petition has been filed to quash the S.T.C.No.423 of 2022 pending on the file of Judicial Magistrate Court No.I at Tindivanam.

2. The learned counsel for the petitioner mainly canvassed the quashing



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of S.T.C.No.423 of 2022, on the ground that case initiated in S.T.C.No.423 of 2022 would amount to Double jeopardy for the reason that the complainant had already a given police complaint in Crime No.354 of 2022 for the offences under Section 406, 420 and 506(1) of IPC at Nolambur Police Station.

3. However, this Court finds from the perusal of the complaint filed in S.T.C.No.423 of 2022 and First information report registered in Crime.No.354 of 2022 that though there appears some overlapping of the facts, there is independent cause of action for registering the FIR in Crime No.354 of 2022.

4. S.T.C.No.423 of 2022 was filed against the petitioner claiming that she issued cheques for a sum of Rs.10,00,000/- towards discharging the liability of her husband namely S.Raghu and then she stopped the payment. Therefore, the complaint for the offence under Section 138 of Negotiable Instrument Act was filed. Negotiable Instrument Act is a special Act and it has a special provision for prosecution of cases concerning dishonouring of cheques. Police cannot register a case under Section 138 of Negotiable Instrument Act. On the other hand, the reading of First information report in Crime No.354 of 2022 shows that apart from narrating the sequence of events



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leading to the issuance of the cheques which was dishonoured by stopping payment, there are further allegations against the petitioner and other accused that when the respondent visited the petitioner's house seeking return of money, the petitioner said to have made death threat to the respondent. There are allegations for cheating also. Those allegations create independent cause of action for initiating criminal prosecution.

5. This Court is of the view that the prosecution of petitioner for the offence under Section 138 of Negotiable Instrument Act in S.T.C.No.423 of 2022 cannot be considered as Double Jeopardy. It appears that even final report is not filed in Crime No.354 of 2022. Even before the filing of the final report, claim made by the learned counsel for the petitioner that S.T.C.No.423 of 2022 would amount to Double Jeopardy cannot be appreciated. Both cases have independent cause of action and therefore, quashing of the S.T.C.No.423 of 2022 cannot be entertained.

G.CHANDRASEKHARAN, J.
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6. In this view of the matter, this Criminal Original Petition is dismissed.

Consequently, the connected Miscellaneous Petitions are closed.

06.12.2022

Internet: Yes
Index: Yes/No

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To

The Judicial Magistrate Court No.I,
Tindivanam.

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