IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.Nos.31992, 32004 and 32011 of 2019
and
Crl.M.P.Nos.3743 of 2020 and 17537, 17535, 17549, 17548 of 2019
and 3744, 3746 of 2020

P.Sasikala ...Petitioner/1st Accused in all Crl.O.Ps

Vs.

S.Alexander ...Respondent/Defacto complainant in all Crl.O.Ps

COMMON PRAYER : Criminal Original Petitions are filed under Section 482 of Cr.P.C., praying to call for the records and to quash the same relating to C.C.Nos.1666 and 1797 of 2017 and 4372 of 2016, pending trial of the FTC-III, Saidapet, Chennai District, pending disposal of the above Crl.O.Ps.

For Petitioner in all Crl.O.Ps : Mr.S.Kalyanaraman

For Respondent in all Crl.O.Ps : M/s.A.Gnana Esther Dorathy

COMMON ORDER

These Criminal Original Petitions have been filed seeking to call for the records and to quash the same relating to C.C.Nos.1666 and 1797 of 2017 and 4372 of 2016, pending trial of the FTC-III, Saidapet, Chennai District, pending disposal of the above Crl.O.Ps.

2. Learned counsel for the petitioner submits that A2 is the signatory of the cheque and the petitioner/A1 is no way connected with the alleged transaction. As she being wife of A2, she is unnecessarily harassed by the respondent by falsely implicated her in this case.

3. The Accused 1 and 2 are the husband and wife and living in the same locality. Both the accused were running a chit fund in the same locality. The defacto complainant states that in the year November, 2013, the complainant was compelled by both the accused to join in the chit fund group for a sum of

Rs.3,00,000/- for which the complainant have to pay Rs.25,000/- per month for a period of 12 months. The complainant further states that on compulsion by both the accused and since they are neighbours, the complainant joined the chit fund run by the accused herein and the complainant paid the full chit amount without any due and arrears every month. The complainant was very regular in paying the chit amount and at the end of the 12 month ie., 10.10.2014 the complainant asked both the accused to pay the matured amount of Rs.2,52,437/- but both the accused are evading to pay the amount that is due to the complainant on some pretext or other. The purpose of the complainant enrolling the chit scheme was that he felt that the money would be useful to take care of his wife's medical expenses and also for his own medical expenses.

4. The learned counsel for the respondent would further submits that the accused are husband and wife and residing in same place and all are neighbours and the chit fund company was run by the husband and wife. At the end of 12th month, the defacto complainant asked the petitioners to pay a sum of Rs.2,52,437/- and the defacto complainant had given some amount towards hand loan viz., Rs.55,000/- on 11.02.2014 and another sum of Rs.70,000/- on 05.06.2014. Subsequently, he had borrowed Rs.80,000/-, Rs.7,000/- and Rs.36,000/- on 25.06.2014 and even thereafter, the payments by way of hand loan were made on various dates and in all, a sum of Rs.9,70,437/- was due and payable to the complainant. According to the complainant he paid a sum of Rs.9,70,437/-. Since the amount was not paid a complaint was lodged against the petitioner and her husband on 19.06.2015 with the Commissioner of Police, Vepery, Chennai, and during the enquiry, A2 agreed to pay a sum of Rs.5,60,000/- in 10 instalments and gave 7 post-dated cheques, only for four lakhs. In the case on hand one post-dated cheque given bearing Nos.590270 - 20.02.2016 for Rs.50,000/- drawn on Indian Bank, Velacherry totalling a sum of Rs.50,000/- were returned by the bank with an endorsement "insufficient funds" on presentation.

5. On considering the facts, it reveals that the second petitioner herein is the wife of A1 and both husband and wife conducting the chit fund and after the payment of instalments they issued the cheque which was dishonoured and all were related to the chit amount transaction. After dishonour of the cheque, the complainant has issued notice to the husband and wife/petitioner. But the notice were returned "as unclaimed". As per the submission of the respondent counsel still both are residing in the same address.

6. Furthermore, the learned counsel for the petitioner states that the petitioner is the wife of A1 should not be

unnecessarily harassed as she has not signed in any of the cheque. But fact reveals that both are jointly conducting the chit and she has also enjoyed the transaction. Whether the accused are liable to effect payment or not is mixed question of fact on law could be decided by adducing oral and documentary evidence. Though learned counsel for the petitioner submits that the petitioner is not liable even as per under Section 141 of Negotiable Instrument Act, but this Court is of the view that such defence can be taken before the trial Court.

7. In the result, these criminal original petitions are dismissed. Since the cases are of the year 2019 and they are pending for the cross examination of PW.1., the trial Court is directed to dispose of the matter within a period of three months from the date of receipt of a copy of this order and the petitioner is directed to co-operate with the trial proceedings. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

The FTC-III, Saidapet, Chennai District.

+1cc to Mr.A.Gnana Esther Dorathy, Advocate, S.R.No.937
+3cc to Mr.S.Kalyanaraman, Advocate, S.R.No.513 to 515

Crl.O.P.Nos.31992, 32004 and 32011 of 2019

SPD(CO)
SB(14/02/2022)