



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.30001 of 2018 &
Crl.M.P.Nos.17618 & 17619 of 2018

P.Sangeetha

... Petitioner/2nd Accused

Vs

R.Arul Murugan

... Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.111 of 2018 on the file of the Fast Track Court, [Magistrate Level], Poonamallee and quash the same.

For Petitioner : Mr.A.Edinbrouch

For Respondent : Ms.Lekha Sankar

O R D E R

This petition has been filed to quash proceedings in C.C.No.111 of 2018 on the file of the Fast Track Court, [Magistrate Level], Poonamallee initiated under section 138 of the Negotiable Instruments Act.

2. The crux of the complaint indicate that the first and the second accused approached the defacto complainant and received a sum of Rs.1,50,000/- for treatment purpose of the present petitioner and a sum of Rs.1,50,000/- was advanced to the first petitioner. Even after the treatment is over, the accused evaded to pay the amount. When the matter stood thus, when the defacto complainant insisted for repayment of the amount, both of them handed over a cheque. When the cheque was presented for encashment, it got dishonoured with an endorsement 'signature differs'. Thereby, after issuing statutory notice, the present complaint has been filed.

3. It is relevant to note that to maintain a complaint under section 138 of the Negotiable Instruments Act, the cheque



should have been drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability and when the cheque has been dishonoured, the same gives cause of action to file a complaint under section 138 of the Negotiable Instruments Act. Therefore, the main ingredients to attract the offence under section 138 of the Negotiable Instruments Act, is that the drawer should have issued a cheque drawn on the account maintained by him with the bank. In this case, the cheque has been issued only by A1. Therefore, merely because the amount has been parted and the cheque has been issued by A1, husband of the present petitioner, the prosecution against the present petitioner is not permissible in the eye of law.

4. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.111 of 2018 on the file of the Fast Track Court, [Magistrate Level], Poonamallee against the present petitioner/A2 is quashed. Consequently, connected miscellaneous petitions are closed. The trial Court is directed to expedite the trial and dispose of this case within a period of four months from the date of receipt of this Order.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

vrc / kbs
To

The Fast Track Court,
[Magistrate Level],
Poonamallee.

+2cc to Mr.B.Sasikumar, Advocate Sr.6314

Crl.O.P.No.30001 of 2018

mg[co]
srg 15/02/2022