



WEB COPY



CRL.O.P (MD) No.14808 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.14808 of 2022

and

CrI.M.P(MD)No.9637 of 2022

Amara Sivaram

...Petitioner

Vs.

Raja Michael

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the impugned complaint in STC.No.646 of 2021 on the file of the District Munsif cum Judicial Magistrate, Radhapuram in so far as the Petitioner is concerned.

For Petitioner : Mr.V.Sasikumar

For Respondent : Mr.R.J.Karthick

ORDER

This Criminal Original Petition has been filed to quash the impugned complaint in S.T.C.No.646 of 2021 on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram, in so far as the Petitioner is concerned.



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2.The learned Counsel for the Petitioner submitted that as per the averments in the complaint in S.T.C.No.646 of 2021, the Petitioner herein, who is arrayed as A2, has no role in issuing the cheque or affixing his signature on the cheque. The learned Counsel for the Petitioner submitted that two cheques were issued by A1 on 19.04.2022 and 26.04.2022. The first cheque was presented by the Respondent/Complainant on 23.04.2019 and it was returned on 24.04.2019. The second cheque was presented on 02.05.2019 and it was returned on the same day. The only averments in the complaint is that the account is a joint account of the Petitioner and her husband. He invited the attention of this Court to the copy of the cheque, in which, the signature of the Petitioner is not found. Only the signature of A1 is found in the cheque.

3.He also invited the attention of this Court to the Ruling of the Hon'ble Supreme Court of India in the case of *Aparna A.Shah vs. Sheth Developers Pvt.Ltd & Anthor* reported in *III (2013)BC 491 (SC)*, in which, it is stated that as per the provision of 138 of Negotiable Instruments Act, the complaint cannot be proceeded against the joint account holder, if his or her signature are not found on the cheque. Therefore, the learned Counsel



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for the Petitioner seeks to quash the impugned complaint for the offence under Section 138 of Negotiable Instruments Act in S.T.C.No.646 of 2021 on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram.

4.The learned Counsel for the Respondent fairly conceded the reported ruling relied upon by the learned Counsel for the Petitioner and seeks direction to the learned District Munsif cum Judicial Magistrate, Radhapuram, to dispose of the case within a specific period.

5. In the light of the above, this Criminal Original Petition stands allowed and the impugned complaint in S.T.C.No.646 of 2021 on the file of the learned District Munsif cum Judicial Magistrate, Radhapuram, is quashed as against the Petitioner/A2. The complaint in S.T.C.No.646 of 2021 shall proceed as against the other accused/A1. When the witnesses present in the Court, the learned Counsel for the accused shall proceed with cross examination. The learned District Munsif cum Judicial Magistrate, Radhapuram, is directed not to grant adjournment on request of either accused or his Counsel. The learned District Munsif cum Judicial



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Magistrate, Radhapuram, shall consider the reported ruling of the Hon'ble Supreme Court in the case of ***Vinod Kumar Vs. State of Punjab (In Criminal Appeal No.554 of 2012)*** and dispose of the case within a reasonable period of two months from the date of receipt of a copy of this order. Evidence can be recorded within a period of fifteen days. Consequently connected Miscellaneous Petition is closed.

10.11.2022

Index:Yes/No
vsd

To

- 1.The District Munsif cum Judicial Magistrate,
Radhapuram.
- 2.The Inspector of Police,
District Crime Branch,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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