



WEB COPY



Crl.O.P.No.4436 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P.No.4436 of 2021 and
Crl.MP.Nos.2835 & 2836 of 2021

1.M.Santhanam

2.S.Vijayalakshmi

... Petitioners

Vs.

R.Sathiyamoorthi

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in CC.No.1577 of 2019 on the file of Fast Track Magistrate-II, Coimbatore and to quash the same.

For Petitioners

: M/s.N.S.Keerthika

for M/s.Sarvabhauman Associates

For Respondent

: Mr.R.Bala Ramesh

for Mr.K.Vasantha Nayagan

ORDER

This writ petition has been filed to quash the proceedings initiated in CC.No.1577 of 2019 on the file of the Fast Track Magistrate No.II, Coimbatore.

2. Heard, the learned counsel appearing on either side.

3. The petitioners are accused in the complaint lodged by the



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respondent for the offence punishable under Section 138 of NI Act. The respondent lodged complaint alleging that the first accused had requested the respondent to serve as a security for the entire building by residing on the roof of M/s.Sunitha Printers which had two rooms in the year 1993. The rent was also deducted for the said portion from the salary of the respondent. The respondent was informed that the accused are going to sell the said property and promised to buy a new house for the services rendered by the respondent. They also demanded the respondent to vacate the top floor. Thereafter, the accused persons offered a sum of Rs.15 lakhs in respect of buying a house. It was duly accepted by the respondent and the accused persons paid a sum of Rs.7 lakhs as cash and two cheques for a sum of Rs.4 lakhs each. Both the cheques were deposited for collection. However, both were returned dishonoured on the ground that 'the payment stopped by the petitioners'. Thereafter, legal notice was caused and lodged complaint. After taking cognizance, the trial court issued summons to the petitioners.

4. The petitioners are joint account holders of the savings bank account in the Federal Bank Limited, SSI Branch, Coimbatore. The first accused signed the cheque each Rs.4 lakhs and issued in favour of the



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respondent. Subsequently, the payment was stopped by the petitioners and as such, cheques were returned dishonoured on the ground that the payment stopped by the drawer of the cheques. Though the petitioners are joint account holders, the first petitioner alone signed cheque and issued in favour of the second respondent. As per the conditions, any one of the account holder can operate the account. Therefore, as far as the second petitioner is concerned, she is neither signatory of the cheques nor issued the cheque in favour of the respondent. Therefore, the second petitioner is not liable to be punished for the offence under Section 138 of NI Act though she is a joint account holder. Insofar as the first petitioner is concerned, though he specifically averred in this petition that the said cheque was not issued for any legally enforceable debt, it has to be proved before the trial court.

5. On perusal of the reply notice issued by the first petitioner also, he categorically averred that the second petitioner is not signatory of the cheque and she is not liable to be held responsible for the offence punishable under Section 138 of NI Act. Therefore, the complaint cannot be maintainable as against the second petitioner and it is liable to be quashed.

6. Accordingly, the entire proceedings in CC.No.1577 of 2019 on



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the file of Fast Track Magistrate-II, Coimbatore is quashed only as against the second petitioner and this criminal original petition is allowed in respect of the second petitioner alone. Insofar as the first petitioner is concerned, this criminal original petition is dismissed and the trial court is directed to proceed with the trial as against the first petitioner and complete the same within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed.

09.10.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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To

1.Fast Track Magistrate-II,
Coimbatore

G.K.ILANTHIRAIYAN, J.



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