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CrI.OP No.4692 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-11-2023

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

CrI. OP No.4692 of 2023

And

CrI.MP Nos.2961 and 2962 of 2023

Suriyakumari

... Petitioner/Accused

Vs.

SFI Financial Services Pvt Ltd.,
Represented by its Compliance Officer,
R.Jeya Ganesh,
No.6, Kamadhenu 3rd Street,
Mogappair East,
Chennai-600 037.

... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to quash the complaint in STC No.4722 of 2022 on the file of Fast Track-II, Metropolitan Magistrate, Allikulam, Chennai for offence under Section 138 of the Negotiable Instruments Act,



For Petitioner : Mr.P.N.Vignesh

For Respondent : Mr.M.L.Sripathi

ORDER

The present Criminal Original Petition has been filed to quash the complaint in STC No.4722 of 2022 on the file of Fast Track-II, Metropolitan Magistrate, Allikulam, Chennai for offence under Section 138 of the Negotiable Instruments Act, 1881.

2. The respondent-complainant, which is a Banking Institution, for the recovery of the loan due, had received the subject cheque for Rs.8,94,449/-. However, on presentation, the cheque got bounced for want of funds. Thereafter passing statutory notice to the petitioner herein and receiving reply, a complaint has been filed and the same was taken on file by the Trial Court in STC No.4722 of 2022 on the file of Fast Track-II, Metropolitan Magistrate, Allikulam, Egmore, Chennai for offence under Section 138 of the Negotiable Instruments Act, 1881.



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3. The learned counsel appearing on behalf of the petitioner submitted that the subject cheque was not issued from the Bank Account maintained by the petitioner herein, namely, Suriyakumari. The subject cheque belongs to the son of the petitioner Amudhan, who is a co-guarantor for the loan. The complaint is not against the drawer of the cheque. Neither statutory notice was issued to the drawer of the cheque. While the drawer of cheque is Amudhan, his mother Suriyakumari cannot be prosecuted under Sections 142 and 138 of Negotiable Instruments Act, 1881.

4. The learned counsel appearing on behalf of the respondent-complainant submitted that these facts were not disclosed by the accused in his reply notice. Had he been disclosed it that would have been prosecuted against the drawer of the cheque.

5. The abovesaid explanation cannot be taken into consideration at this stage. Right from the inception from causing statutory notice and till the filing of complaint, and it being taken cognizance the complainant had miserably failed to cause notice to the drawer of the



cheque and proceed against the drawer of the cheque. Therefore, the prosecution cannot sustain by any stretch of imagination. As a result, the complaint in STC No.4722 of 2022 pending on the file of Fast Track-II, Metropolitan Magistrate, Allikulam, Egmore, Chennai for offence under Section 138 of the Negotiable Instruments Act, 1881 stands quashed.

6. Accordingly, the present Criminal Original Petition stands allowed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

20-11-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

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1.The Metropolitan Magistrate,
Fast Track Court-II,
Allikulam,
Egmore,
Chennai.

2.The Public Prosecutor,
High Court of Madras,
Chennai.



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DR.G.JAYACHANDRAN, J.

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