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Crl.O.P.No.6829 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2023

CORAM:

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

Crl.O.P.No.6829 of 2021
and Crl.M.P.Nos.4524 & 4526 of 2021

Jayaveni

...Petitioner

Vs.

Kumaresan

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating in S.T.C.No.458 of 2018 on the file of the learned Judicial Magistrate Court, Polur, Tiruvannamalai, and quash the same.

For Petitioner : Mr.G.Mohammed Aseep

For Respondent : No appearance

ORDER

This petition has been filed to quash the proceedings in S.T.C.No.458 of 2018 on the file of the learned Judicial Magistrate Court, Polur, Tiruvannamalai, thereby taken cognizance for the offences under Section 138 of the Negotiable Instruments Act (hereinafter called as “the NI Act”), as against the petitioner.



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2. The respondent lodged complaint for the offence under Section 138 of NI Act as against the petitioner. The crux of the allegation is that the petitioner acquainted with the respondent through their family friend one Jayanthi. Thereafter, the petitioner borrowed a sum of Rs.3,00,000/- as loan. She also assured to return the money with interest. However she did not give any interest and also failed to repay the principal amount. In order to repay the said amount, she issued cheque and the said cheque was presented for collection. However it was returned dishonour for the reason “funds insufficient”. After issuance of statutory notice, the respondent lodged the complainant.

3. The learned counsel appearing for the petitioner submitted that the cheque was not issued to the respondent at any point of time. Originally, the petitioner borrowed a sum of Rs.3,00,000/- from one Jayanthi and after repayment of entire loan amount the cheque, which was already given as security purpose, was handed over to the respondent and presented the same. That apart, the person who borrowed money from the said Jayanthi committed suicide and as such on the complaint FIR has been registered as against the said Jayanthi and her



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husband in Crime No.413 of 2017 for the offences under Sections 384, 306, 116 of IPC r/w Section 10(a) and Section 17(a) of Money Lenders Act, 1957 and also Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act. Hence, he prayed to quash the entire proceedings as against the petitioner.

4. Heard the learned counsel appearing for the petitioner. No one is appearing on behalf of the respondent either through person nor through counsel.

5. The grounds raised by the petitioner are mixed question of fact and it cannot be considered by this Court under Section 482 of Cr.P.C. That apart, the petitioner never denied the signature and issuance of cheque. Therefore, there are material to attract the offence under Section 138 of NI Act and the trial Court rightly taken cognizance for the offence under Section 138 of NI Act. This Court finds no grounds to quash the proceedings and the petition is liable to be dismissed.



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WEB COPY 6 Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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1. The Judicial Magistrate Court,
Polur,
Tiruvannamalai,



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G.K.ILANTHIRAIYAN. J.

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