



WEB COPY



CrI.OP.No.9582 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.OP.No.9582 of 2023

and

CrI.MP.Nos.6252 and 6253 of 2023

Susmitha

... Petitioner

Vs.

V.Sridhar

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in S.T.C.No.5992 pending on the file of the Metropolitan Magistrate/Fast Track Court-II, Egmore, Chennai and quash the same as illegal and pass further orders.

For Petitioner : Mr.R.Shivakumar
for Mr.K.M.Vijayan

For Respondent : Mr.K.S.Ganesh Babu

ORDER

The petition to quash the private complaint initiated under Section



138 of Negotiable Instruments Act.

WEB COPY

2. The short point canvassed by the petitioner herein is that she is the partner of the first accused firm, but, she had no knowledge about the issuance of cheque drawn by the second accused on behalf of the first accused and she is not involved in the day to day affairs of the partnership firm.

3. However, the learned counsel appearing for the complainant submitted that in the complaint extensively the role of third accused/petitioner herein been mentioned and being the partner of the firm and been actively participating in the affairs of the firm including the borrowal of the amount for which the cheque was issued to discharge the loan.

4. Further, the learned counsel for the complainant submitted that when the statutory notice was issued, the accused replied therein he has not denied her participation in the affairs of the accused firm. Infact, the defence taken by the petitioner is that the entire investment was settled much prior to the date of notice but due to age and other stress, the blank cheque given earlier as security not taken back.



CrI.OP.No.9582 of 2023

WEB COPY

5. On perusal of the record and the submissions made by the counsel, this Court finds that in favour of the complainant V.Sridhar, cheque drawn from the account maintained by M/s.Square Hospitality Services for a sum of Rs.30,00,000/- been drawn by the second accused who is the authorized signatory. The third accused admits that she is partner in the firm. She denies the knowledge and involvement in the affairs of the firm. Contrarily in the complaint as well as in the notice there is reference about the role of the petitioner as one of the partner in the accused firm. There is enough averments prima facie to hold that the petitioner was involved in the day to day affairs firm and no contra material placed by the accused either in the reply or to any other document. The fact about the denial of vicarious liability has to be tested in the trial and not before the High Court under Section 482 of Cr.P.C. Hence, Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

6. However, it is open to the petitioner herein to canvass all this points before the trial Court.

Vv

20.11.2023



CrI.OP.No.9582 of 2023

To
WEB COPY

1. The Metropolitan Magistrate/Fast Track Court-II,
Egmore, Chennai.
2. The Public Prosecutor,
High Court of Madras,
Chennai.



WEB COPY



CrI.OP.No.9582 of 2023

Dr.G.JAYACHANDRAN,J.

Vv

CrI.OP.No.9582 of 2023
and
CrI.MP.Nos.6252 and 6253 of 2023

20.11.2023