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Crl.O.P.No.15005 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2023

CORAM:

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

Crl.O.P.No.15005 of 2021

Crl.M.P.Nos. 8188 & 8245 of 2021

S.M.Rahmath Mariam

...Petitioner

-Vs-

Vijayakumar

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.2099 of 2019, pending on the file of the Metropolitan Magistrate Court, FTC-IV, George Town, Chennai and quash the same.

For Petitioner : No appearance

For Respondent : Mr.N.Ponraj

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.2099 of 2019, on the file of the Metropolitan Magistrate Court, FTC-IV, George Town, Chennai, thereby taken cognizance for the offences under Sections 138 & 142 of the Negotiable



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Instruments Act (hereinafter called as “the NI Act”) as against the petitioner.

2. The respondent filed complaint alleging that the petitioner used to borrow money from the respondent for her family needs. The petitioner's son, daughter and grandson have also used to borrow money from the respondent. They used to return the money with nominal interest. The petitioner had borrowed several lakhs from the respondent on various dates. While the respondent demanded to re-pay the money, the petitioner assured to repay the loan and she issued cheque dated 06.05.2019 for a sum of Rs.10,25,000/-, towards part settlement in favour of the respondent. The said cheque was presented for collection and the same was returned dishonoured with an endorsement “account closed”. Immediately, the respondent caused legal notice dated 31.07.2019 and thereafter lodged the complaint. The said complaint has been taken cognizance by the trial Court and issued summons to the petitioner.

3. On receipt of the same, the petitioner filed the quash petition



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on the ground that after repayment of entire loan amount, the respondent failed to return the cheque which was given as security. In fact, there was memorandum of understanding between the petitioner and the respondent and accordingly the entire amount was settled towards the entire borrowal. Even then, the respondent misused the cheque and filed the present complaint for the offence under Section 138 of the NI Act.

4. The ground raised by the petitioner cannot be gone into under Section 482 of Cr.P.C., since it has to be established before the trial Court during trial. Those documents cannot be tested before this Court that too under Section 482 of Cr.P.C. Except the said ground, no other ground raised by the petitioner to quash the proceeding. Therefore, this Court is not inclined to quash the present proceedings. However, the trial Court viz., the Metropolitan Magistrate, FTC-IV, George Town, Chennai, is directed to dispose the case in C.C.No.2099 of 2019, within a period of three months from the date of receipt of a copy of this Order, if not already disposed of.



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5. With the above directions, the Criminal Original Petition stands Dismissed. Consequently, connected miscellaneous petitions are closed.

04.10.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

1. The Metropolitan Magistrate,
FTC-IV, George Town,
Chennai.



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G.K.ILANTHIRAIYAN. J.

rts

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