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Crl.O.P No.20571 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.20571 of 2022
and
Crl.M.P.Nos.13476 & 13477 of 2022

S.Rathi
W/o.T.C.Sivakumar
Partner of M/s.Abirame Retreads,
Door No.L-19-A/136, Kootapalli Colony,
Kootapalli Village and Post,
Tiruchengodu,
Namakkal District – 637 214.

... Petitioner/A-3

vs.

K.Manoharan

... Respondent/complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the case in STC No.7074 of 2019 on the file of the learned Judicial Magistrate No.II, Salem and quash the same as against the petitioner.

For Petitioner : Mr.T.Dhasarathan

For Respondent : No appearance



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5. On carefully going through the complaint, it is seen that there are absolutely no allegations against the petitioner (A3). The entire transaction had taken place between A2 and the respondent. The petitioner has been attempted to be roped in as an accused only on the ground that the cheque was issued in the name of the partnership Firm by A2 and that the petitioner is also a partner in the Firm. If that is taken to be true, the complaint has to necessarily contain the averments satisfying requirements of Section 141 of the Negotiable Instruments Act. The same is completely absent in this case. The complaint is also silent with regard to the role played by the petitioner (A3) in the transaction.

6. In the light of the above discussion, the continuation of the proceedings as against the petitioner (A3) will amount to an abuse of process of Court, which requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

7. In the light of the above discussion, the proceedings in S.T.C.No.7074 of 2019 on the file of Judicial Magistrate Court No.II, Salem



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is hereby quashed insofar as the petitioner (A3) is concerned. The Court below is directed to proceed further with the complaint and dispose of S.T.C.No.7074 of 2019 within a period of three months from the date of receipt of a copy of this order.

8. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

02.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
rsi

To

The Judicial Magistrate No.II,
Salem.



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N. ANAND VENKATESH, J.

rsi

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