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Crl.O.P.No.6 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

CORAM:

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

Crl.O.P.No.6 of 2022
and Crl.M.P.Nos.13 and 14 of 2022

K.Jayanthi

...Petitioner

-Vs-

K.Subburaj

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the complaint in C.C.No.23 of 2019 on the file of the District Munsif Cum Judicial Magistrate, Valangaiman, Thiruvarur District and quash the same as far as the petitioner is concerned.

For Petitioner : Mr.G.Pugazhenth

For Respondent : Mr.K.Sudhakar

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.23 of 2019 on the file of the District Munsif Cum Judicial Magistrate, Valangaiman, Thiruvarur District.



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2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

3. The respondent filed a complaint for the offence under Section 142 of the Negotiable Instruments Act. The crux of the complaint is that the accused had acquaintance with the respondent. The accused had borrowed a sum of Rs.5,00,000/-, on 06.10.2018 to develop their business. On the same day, they had executed a pro-note and also executed an undertaking deed in order to repay the said loan amount. Both the accused assured that they will return the entire amount and accordingly, they issued cheques for a sum of Rs.2,50,000/- each, on 13.05.2019. Both the cheques were presented for collection and both were returned dishonoured for the reason “Funds Insufficient”. After causing statutory notice, filed complaint.

4. There are totally two accused, in which the petitioner is arrayed as A2. She is none other than the wife of the first accused. According to the respondent, both the accused had borrowed a sum of Rs.5,00,000/- and both had executed a pro-note dated 06.10.2018, thereby undertakes to repay the said loan amount. Thereafter, the cheques were issued by



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both the accused signed by the first accused. Though both have a joint account, the first accused signed the cheques and issued the same. Admittedly, the petitioner herein did not sign in the cheque and she did not issue the cheques, in favour of the respondent. Though she had also executed the undertaking deed along with her husband, she did not sign the cheques.

5. Though both the accused have a joint account, it is not necessary to sign in the cheque by both the account holders. One of the account holders can be permitted to operate the account and one of the account holders can sign the cheque and issue. Accordingly, the first accused signed the cheques and issued in favour of the respondent. Therefore, the petitioner may be liable to return the amount which was jointly borrowed from the respondent, but she cannot be prosecuted for the offence under the Negotiable Instruments Act for not committing the offence.

6. In view of the above discussions, the proceedings in C.C.No.23 of 2019 on the file of the District Munsif Cum Judicial Magistrate, Valangaiman, Thiruvavur District cannot be sustained as against the



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petitioner and it is liable to be quashed. Accordingly, the proceedings in C.C.No.23 of 2019 on the file of the District Munsif Cum Judicial Magistrate, Valangaiman, Thiruvavarur District, is hereby quashed, only as against the petitioner. The Trial Court is directed to proceed with the Trial as against the first accused and complete the trial in C.C.No.23 of 2019, within a period of six months from the date of receipt of a copy of this order.

7. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed.

24.11.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
mn

G.K.ILANTHIRAIYAN. J.

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To

The District Munsif Cum Judicial Magistrate, Valangaiman, Thiruvarur
District.

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