



CRL. OP No.28145 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.06.2023**

CORAM:

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

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P.Geetha : Petitioner

versus

S.Premaleela : Respondent

Petition filed under Section 483 of the Code of Criminal Procedure to call for the records in CC No.325 of 2019 on the file of the Fast Track Court at Magisterial Level, Coimbatore, and to quash the proceedings.

For Petitioner : Mr.P.Anandan
for M/s.Majestic Law Firm

For Respondent : Mr.A.E.Ravichandran

ORDER

The petitioner, who is accused in C.C.No.325 of 2019 facing trial on a private complaint filed by the defacto complainant for offence under Section 138 of the Negotiable Instruments Act, has filed this quash petition.



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2. The learned counsel for the petitioner submits that the petitioner has purchased the subject property for a total sale consideration of Rs.99,36,000/-. The petitioner has paid a sum of Rs.75,86,000/- by way of cash and demand draft, on various dates. Towards the balance amount of 23,50,000/-, three cheques were given: two cheques for a sum of Rs.7,75,000/- each and one cheque for a sum of Rs.8,00,000/-. In the sale deed, it has been clearly mentioned that if the said cheques are not honoured, the sale deed would become invalid. According to the petitioner, two cheques for a sum of Rs.7.75 lakh each, have not been honoured by the petitioner for the reason that the respondent complainant had suppressed about the pendency of the civil suit in O.S.No.1 of 2017, on the file of District Munsif cum Judicial Magistrate, Kothagiri, between the respondent and one K.C.Sivaraman. Further, as per the agreement, the respondent had agreed to fence the property and also to make an approach road to the property. However, the same has not been done by the respondent. The learned counsel further submitted that after the purchase and measurement of property, it was found that the extent of the property was less than what was mentioned in the sale deed. For these reasons, there is no legally enforceable debt and the petitioner cannot make a claim based on the above cheques. The petitioner had also replied to the statutory notice raising the above issues. Even thereafter, the respondent has not done anything to address those issues. On the other hand, the respondent had proceeded against the petitioner and filed this complaint.

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3. Learned counsel for the respondent submitted that the present case has been filed in the year 2019 and for the past four years, the case has been kept pending without any progress. He further submitted that the sale agreement was entered on 15.12.2015. The civil suit pending between the respondent and Sivaraman, in O.S.No.1/2017, ended in favour of the respondent, vide judgment dated 25.02.2022. This suit was filed subsequent in the year 2017. The petitioner, after purchasing the property, had mutated the revenue records in her name. Now the petitioner is in possession and enjoyment of the property. She has created lame excuses to deny the legally enforceable debt and has deliberately failed to make the payments. The petitioner, in the notice, had narrated the sequence, under what circumstances, the issuance of cheques was made by her. Further, the learned counsel for the respondent disputes the contention that there was pre-condition in the sale deed regarding fencing and creation of approach road. Further, possession has been handed over to the petitioner and she is in enjoyment of the property. Denying the lawful dues to the respondent is not proper. He further submitted that the points raised herein are disputable facts, which necessarily have to be decided during trial and not at this stage of quashing the proceedings.



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4. Considering the submissions and perusal of materials, this Court finds that the points raised by the petitioner are disputable facts, involving several documents. There have been transactions between the petitioner and the respondent from the year 2015 and subsequently, there have been other developments. These facts could be decided only during trial. Whatever may be the petitioner's defence, it can be raised during trial with relevant documents and by way of cross examination.

5. Learned counsel for the petitioner vehemently contended that the suit has not ended in favour of the respondent and it has been dismissed.

6. This Court is of the view that this fact could also be confronted to the witnesses during trial.

7. For the above reasons, the original petition is dismissed. Since the case in CC No.325 of 2019 is pending from the year 2019 without any progress, the trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order.

8. It is made clear that the submissions made by the parties is only for the



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limited purpose of disposal of the present original petition. The trial Court shall decide the case before it on its own merits, uninfluenced by any of the observations made in this order.

30.06.2023

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To

The Fast Track Court at Magisterial Level, Coimbatore



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M. NIRMAL KUMAR, J.

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