



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.29407 of 2022
and Crl.M.P.Nos.18023 & 18026 of 2022

Sheeba Ninan

.. Petitioner

Vs.

M/s.State Bank of India
Rep. by its authorized Signatory
City Case Officer, Mrs.S.Kavitha
No.32, “Red Cross Buildings”
2nd Floor, Monteith Road,
Egmore, Chennai – 600 008.

..Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.1902 of 2021, on the file of the Fast Track Court II, Allikulam and quash the same.

For Petitioner : Ms.S.Alagammai

For Respondent : Mr.J.Pothiraj

ORDER

This petition has been filed to quash the proceedings in C.C.No.1902 of 2021 pending on the file of the Fast Track Court II, Allikulam, Egmore.



WEB COPY

2.The respondent has filed a complaint under Section 138 of the Negotiable Instruments Act against the Company and its Directors. The petitioner has been arrayed as A2 in the complaint on the ground she is one of the Director of the Company.

3.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4.The main ground that was urged by the learned counsel for the petitioner is that the petitioner is not even a signatory in the cheque and she is the wife of the Managing Director and that she is not involved in the day-to-day affairs of the Company. In spite of the same, the complaint has been given against the Company and the petitioner and the Managing Director who is the signatory in the cheque has not even been added as an accused.

5.The learned counsel for the respondent Bank submitted that the petitioner is involved in the day-to-day affairs of the Company and she is also aware of the fact that a one time settlement was given by the Bank and the cheque for a sum of Rs.27,00,000/- was drawn in favour of the Bank only towards the one time settlement. The petitioner has



made an averment to the effect that this cheque was given only for security purposes in the quash petition and therefore, it was contended that the petitioner is aware about the entire transaction and therefore, she is involved in the day-to-day affairs of the Company.

6. In the considered view of this Court, it is quite surprising that the complaint was given by the respondent Bank against the Company even without adding the Managing Director as an accused. Admittedly, the cheque was only signed by the Managing Director who happens to be the husband of the petitioner. Instead of prosecuting the Company and the Managing Director, the wife of the Managing Director is now being prosecuted by the respondent Bank.

7. Even on a careful reading of the complaint, except parroting the words found in Section 141 of the Negotiable Instruments Act, there is absolutely no indication as to how and in what manner the petitioner is involved in the day-to-day affairs of the Company. This is the minimum averment that is required to be made in the complaint if the respondent Bank is prosecuting the petitioner (A2). This assumes even more significance since the Managing Director who signed the cheque has been left out and the petitioner is being prosecuted.



N.ANAND VENKATESH, J

SSR

8.In the considered view of this Court, the continuation of the proceedings as against the petitioner will result in abuse of process of Court which requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. Accordingly, the proceedings in C.C.No.1902 of 2021 on the file of the Fast Track Court II, Allikulam, Egmore, is hereby quashed insofar as the petitioner is concerned.

9.In the result, this criminal original petition stands allowed. Consequently, the connected miscellaneous petitions are also closed.

09.08.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

SSR

To

1.The Fast Track Court II, Allikulam.

2.The Public Prosecutor
High Court of Madras, Madras.

Crl.O.P.No.29407 of 2022
and Crl.M.P.Nos.18023 & 18026 of 2022