



Crl.OP.No.939 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

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and

Crl.M.P.Nos.502 and 503 of 2023

Sangeetha

.. Petitioner

Vs.

Lalchand

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records in STC No.372 of 2022 on the file of XVI Judge Court of small causes at Chennai and quash the same and pass orders.

For Petitioner : Mr.M.Eghambaram

For Respondent : Mr.R. Ganesh Kumar

ORDER

The petitioner herein is the accused in the complaint under Section 138 of Negotiable Instruments Act alleging that the statutory notice dated 05.01.2020 in which subject cheque dated 25.12.2020 alleged to have been presented and returned for 'insufficient of funds', claiming that for



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a cheque dated 25.12.2020, statutory notice dated 05.01.2020 could not have been issued. That apart, so contend that the brother of the complainant who is the power agent to lodge the complaint sought for cheque for his share broking business. The said cheque was misused with guilty intention to grab money. Claiming that there was no transaction between the petitioner and the complainant prayed for quash the complaint.

2. The learned counsel for the petitioner submits that the issuance of cheque for discharge of debt been clearly narrated in the complaint in so far as the statutory notice is concerned inadvertently the year been mentioned as 2020 instead of 2021. However, the postal receipt could clearly show that the notice was sent by register post on 06.01.2021 and the same was received by the accused and he has replied through counsel to notice dated 18.01.2021.

3. The learned counsel further submits that the spirit of Section 139 of Negotiable Instruments Act is to intimate the drawer of the cheque about dishonouring and to call him to pay the cheque amount within 15 days, failing which, action will be taken against him under Section 138 of Negotiable Instruments Act.



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4. In this case, no doubt the lawyer's notice is dated 05.01.2020, whereas the content of the notice clearly discloses borrowing, issuance of cheque to discharge the debt, presentation of the subject cheque and dishonouring. The accused has received the notice and replied to the notice denying liability and infact this Court also notice that in the reply notice, the counsel for the accused/petitioner has also typed the year as 2020 and corrected it as 2021 with the pen. This normally happens at the beginning of the year and therefore that cannot be a ground to quash the criminal complaint which has been instituted due procedure. So far as the other points raised in the quash petition, it is all question of fact which has to be tested in the trial. Hence, quash petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

Vv

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To

1. The XVI Judge Court of small causes, Chennai
2. The Public Prosecutor,
High Court of Madras.



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Dr.G.JAYACHANDRAN,J.

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