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CrI.O.P.No.6083 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.01.2024

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

CrI.O.P.No.6083 of 2022

and

CrI.M.P.No.3383 of 2022

Sagunthala

... Petitioner

Versus

R.K.Srihari

... Respondent

Criminal Original Petition filed Under Section 482 of the Code of Criminal Procedure, praying to call for the records in C.C.No.142 of 2021 on the file of the Judicial Magistrate Court, Gudiyattam and quash the same.

For Petitioner : Mr.X.Selvam Sounder

For Respondent : No appearance

ORDER

The petitioner has filed this petition to quash the proceedings in C.C.No.142 of 2021 on the file of the Judicial Magistrate Court, Gudiyattam , in which the cognizance was taken for the offence punishable under Section 138 of Negotiable Instruments Act.



2. The case of the prosecution is that the petitioner and other accused persons approached the defacto complainant and borrowed a sum of Rs.5,00,000/- for the purpose of business and family expenses. On the same day the petitioner has given post-dated cheque to the complainant from a joint account bearing No.383926 for Rs.5,00,000/- drawn on 23.09.2020, from HDFC Bank Ltd., Pattabiram Branch, Chennai. At the time of issuing of the said cheque to the respondent, both the accused represented that the cheque, would be honored if presented for the collection on the date mentioned in the cheque. The defacto complainant presented the cheque for collection on 18.12.2020 and through EQUITAS SMALL FINANCE BANK LTD., Gudiyattam Branch, but the same was returned with an endorsement of "Insufficient funds". Consequently, the petitioner cheated the defacto complainant.

3. The learned counsel for the petitioner submitted that the petitioner is not the signatory of the cheque. In fact, her husband alone is said to be signatory on the cheque, and she is in no way connected with the alleged transactions. She asserts that no payment was made, and she did not sign any cheque. Therefore, she seeks to quash the proceedings against her.



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4. By way of reply, the learned counsel for the respondent argued that the petitioner and her husband are joint account holders. The cheque was presented from their account, thus proceedings were initiated against both the husband and wife. Furthermore, it was noted that before initiating proceedings, notice was issued to both accused persons, but no reply from them.

5. Considering the facts and circumstances, and recognizing that more will be revealed during the trial, this Court declines to quash the proceedings in C.C.No.142 of 2021 on the file of the Judicial Magistrate Court, Gudiyattam. Liberty is granted to the petitioner to pursue the appropriate legal remedy before the trial Court.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

18.01.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No

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T.V.THAMILSELVI, J.

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