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Crl.R.C.No.1006 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1006 of 2024

And

Crl.M.P.No.8518 of 2024

R.Selvanayaki

... Petitioner

Vs.

D.Rajendran

... Respondent

Prayer:

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code, to set aside the order passed in Crl.M.P.No.21310 of 2024 order dated 22.05.2024 pending on the file of the XXVI Metropolitan Magistrate, Egmore, Chennai by allowing this criminal revision petition.

For Petitioner : Mr.J.Ganesh

O R D E R

This criminal revision has been filed seeking to set aside the order dated 22.05.2024 passed by the learned XXVI Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.21310 of 2024.



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2.The case of the petitioner is that the petitioner filed a petition under Section 254(2) of Cr.P.C. for examination of one Panchamurthy as witness before the learned XXVI Metropolitan Magistrate, Egmore, Chennai in CrI.M.P.No.21310 of 2024 in S.T.C.No.5603 of 2022 and the same was dismissed by the trial Court. Challenging the same, the petitioner has filed the present revision.

3.The learned counsel appearing for the petitioner submitted that the respondent filed complaint under Section 138 of the Negotiable Instruments Act alleging that the petitioner borrowed a sum of Rs.3 Lakhs and in order to discharge the said liability, issued a cheque bearing no.956250 dated 08.02.2022 drawn on Indian Overseas Bank and the said cheque when presented for collection on 08.02.2022 was dishonoured for the reason 'funds insufficient' on 10.02.2022. In order to disprove the same, the petitioner filed CrI.M.P.No.21310 of 2024 seeking to examine one Panchamurthy as witness.

4.The learned counsel appearing for the petitioner further submitted that the petitioner's mother was admitted in Hospital and for



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treatment, the petitioner issued the disputed cheque in favour of one Panchamurthy who is the brother – in – law of the petitioner and the said Panchamurthy mis-used the cheque and handed over the same to the respondent. In support of his contentions, the learned counsel relied upon the order of this Court dated 04.09.2017 in Crl.R.C.No.970 of 2017.

5.Heard the learned counsel appearing for the petitioner. Since this Court is not inclined to pass any adverse order as against the respondent, notice to the respondent is dispensed with.

6.Admittedly, Panchamurthy is the brother – in – law of the petitioner. The respondent has given complaint alleging that the petitioner borrowed a sum of Rs.3 Lakhs and in order to discharge the said liability, issued a cheque bearing no.956250 dated 08.02.2022 drawn on Indian Overseas Bank and the said cheque when presented for collection on 08.02.2022 was dishonoured for the reason 'funds insufficient' on 10.02.2022. The petitioner claim that she never gave any cheque to the respondent. Her mother was admitted in Hospital and for treatment, the petitioner issued the disputed cheque in favour of one Panchamurthy who is the brother – in – law of the petitioner



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and the said Panchamurthy mis-used the cheque and handed over the same to the respondent.

7.The reply notice given by the petitioner does not reveal the above facts and the respondent also did not aver any such thing in his complaint. It is a new theory and Panchamurthy has nothing to do with the respondent. No evidence is available to link Panchamurthy with the transaction inbetween the petitioner and the respondent. The decision relied upon by the learned counsel appearing for the petitioner is not applicable to the present case on hand. Hence, this Court is not inclined to interfere with the order impugned in this revision.

8.The criminal revision case is dismissed. The learned XXVI Metropolitan Magistrate, Egmore, Chennai shall decide S.T.C.No.5603 of 2022 based on the materials available on record and without being influenced by any of the observations made in this order. Consequently, the connected miscellaneous petition is closed.

24.06.2024

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Index: Yes/ No Speaking Order: Yes/ No NCC: Yes/ No

To

1.The XXVI Metropolitan Magistrate, Egmore, Chennai.

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M.DHANDAPANI,J.
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