



CrI.O.P.No.15219 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 28.08.2024

Pronounced on: 03 .09.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

CrI.O.P.No.15219 of 2024
& CrI.M.P.Nos.9292 & 9293 of 2024

M.Yeshotha

.... Petitioner/Accused

/versus/

Sri Senthur Finance,
Rep. by its Managing Partner,
R.K.Selvarhajan, M/A56,
S/o.Karuppanna Gounder,
Having Office at No.53, Pravish Plaza,
Karur Bypass Road,
Moolapalaym, Erode – 638 002.

.... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records in S.T.C.No.60 of 2024 on the file of Judicial Magistrate (Fast Track Court No.II), Erode under Section 200 of Cr.P.C r/w 138 of Negotiable Instruments Act with regard to the petitioner and quash the complaint filed and pass orders.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.R.Prabakar



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ORDER

This Criminal Original Petition is filed by the petitioner in S.T.C.No.60 of 2024 on the file of Judicial Magistrate (Fast Track Court No.II), Erode for the offence under Section 138 of Negotiable Instruments Act.

2. The criminal complaint is initiated by the respondent/Complainant who is the Managing Partner of Sri Senthur Finance for the offence under Section 138 of N.I Act. The petitioner has borrowed a sum of Rs.1,25,000/- and issued post dated cheque bearing No.000335 on 01.09.2023. The subject cheque for a sum of Rs.1,25,000/- alleged to have been given by the petitioner to discharge the liability, on presentation was dishonoured, hence the complaint been lodged.

3. According to the petitioner, she and her husband are Partners of Sri Yoga Murugan Finance and Sri Senthur Finance. In the course of transaction, unfilled cheques left in the firm been misused by the present Managing Partner to institute the criminal complaint against them. It is also stated that suit for dissolution of partnership is pending and therefore, there



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cannot be criminal prosecution between the partners.

4. The Learned Counsel for complainant submits that the partnership and suit for dissolution of partnership is not denied but the cheque was given by the petitioner to discharge her personal liability of the loan availed from the Finance Company and therefore, there is no impediment in filing a criminal complaint for dishonour of cheque issued in favour of the firm.

5. This Court, on perusal of the record finds that the grounds raised by the petitioner herein to quash the criminal complaint are factual in nature, veracity of it has to be tested only in the trial. Pre-trial adjudication is not possible in this case.

6. Accordingly, this Criminal Original Petition No.15219 of 2024 is dismissed. Consequently, connected Miscellaneous Petition No.9292 of 2024 is closed.



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7. The Learned Counsel for the petitioner submits that the personal appearance of the petitioner may be dispensed. Considering the above submission and the nature of the case, this Court directs the trial Court to consider any application filed for dispense the personal appearance of the petitioner to consider positively and proceed. With this observation, this ***Criminal Miscellaneous Petition No.9293 of 2024 is disposed of.***

03.09.2024

Index :Yes/No.
Internet :Yes/No.
Speaking Order/Non-Speaking Order.
bsm

To:-

1. The Judicial Magistrate (Fast Track Court No.II), Erode.



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DR.G.JAYACHANDRAN,J.

bsm

Pre-delivery order made in
Crl.O.P.No.15219 of 2024

03.09.2024