



Crl.O.P.No.14896 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.08.2024

Pronounced on: 03 .09.2024

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.14896 of 2024
& Crl.M.P.Nos.9128 & 9127 of 2024

M.Yesodha.

.... Petitioner/Accused

/versus/

Sri Yoga Murugan 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.61 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.61 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 petitioner contends that she and her husband are partners in the respondent/Sri Yoga Murugan Finance Company. They have contributed to the capital of the firm. Due to mis-management and the fraudulent activity of the complainant, she and her husband expressed their unwillingness to continue as partner and called upon the complainant to render accounts. The complaint to the police already been lodged against the complainant/Respondent and investigation is pending. The suit for dissolution of partnership also been filed and the same is pending. While so, signed cheque of the petitioner been misused by the complainant and the private complaint has been filed which is liable to be quashed, since there is no enforceable debt between the petitioner and the complainant firm.



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3. According to the respondent, the petitioner borrowed a sum of Rs.1,00,000/- from the complainant on 01.08.2023 and issued post dated cheque bearing No.000315 on 01.09.2023. The said cheque on presentation, bounced for the reason “Funds Insufficient”. Hence, the complaint been lodged to the police, after issuance of statutory notice.

4. The contention made by the petitioner regarding enforceable liability and the partnership dispute are all matter of fact which has to be decided only in the course of trial. Hence, the petition to quash the criminal complaint is not sustainable.

5. Accordingly, this Criminal Original Petition No.14896 of 2024 is dismissed. Consequently, connected Miscellaneous Petition No.9127 of 2024 is closed.

6. 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



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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.9128 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
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03.09.2024