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Crl.O.P.No.19877 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2024

CORAM :

THE HONOURABLE JUSTICE P.DHANABAL

Crl.O.P.No.19877 of 2022
and
Crl.M.P.No.13066 and 19877 of 2022

Helen Mary

..Petitioner/Accused No.3

-VS-

Sree Gokulam Chits and Finance Company,
represented by V.Mukundan,
No.66/356, Arcot Road,
Kodambakkam,
Chennai – 24.

..Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to call for the records , quash the charges against the petitioner on
C.C.No.1988 of 2013 on the file of the learned Fast Track Court No.III
Magistrate, Saidapet, Chennai.

For petitioner : Mr.T.Naveen Chandar

For Respondent : Mr.L.Rajasekar



ORDER

This Criminal Original Petition is filed seeking to quash the charges against the petitioner on C.C.No.1988 of 2013 in the file of the Fast Track Court No.III Magistrate, Saidapet, Chennai.

2. According to the petitioner, the respondent has filed a cheque complaint under Section 141 and 138 of the Negotiable Instruments Act,1881 in C.C.No.2252 of 2013. The case was instituted against three persons in which the petitioner is arrayed as the third accused. The first accused is the company and the second accused is the Managing Director of the Company and the third accused (petitioner) is not the signatory of the said Company and therefore, no offences made out as against the petitioner. Therefore, the case in C.C.No.2252 of 2013 in the file of the Fast Track Court No.III Magistrate, Saidapet, Chennai as against the petitioner is liable to be quashed.

3. The learned counsel for the petitioner would contend that the first accused is the Company and the second accused is the Managing Director of the Company and the third accused is not a signatory of the company. The first accused company was a subscriber of a chit company



and on behalf of the first accused company, the second accused participated in the chit auction, bid and received the chit amount and failed to repay it. In order to repay, the second respondent has signed a cheque and the respondent/complainant has deposited the said cheque and the cheque was returned by the bank of the accused with an endorsement of “ Account Closed” and hence, the third accused is not liable to be prosecuted.

4. In order to support his contentions, the learned counsel for the petitioner has relied upon the judgement of the Hon'ble Supreme Court of India in ***S.M.S.Pharmaceuticals Ltd., vs. Neeta Bhalla and anr.***

5. Per contra, the learned counsel for the respondent would contend that after filing of the complaint the case has been proceeded for examination of witnesses where P.W.1 was examined and the petitioner was also cross examined and therefore, at this petition cannot be considered and the petitioner could have established her case before the trial Court.

6. Heard both sides and perused the materials available.



P.DHANABAL, J.

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7. Considering the fact that already P.W.1 was examined and the petitioner also cross examined the witnesses, the contention of the petitioner that she is not a signatory of the first accused company and other aspects cannot be decided at this stage and she can raise the said grounds before the trial Court as defence. The grounds raised by the petitioner can be decided by the trial Court based on the documents and evidence and the matter requires an elaborate trial. Taking into consideration the fact that some of the witnesses have been examined, this Court is not inclined to quash the proceedings as prayed for.

8. Accordingly, this Criminal Original Petition is dismissed.
Connected M.Ps. are closed.

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Index : Yes/No
Internet : Yes/No
Citation : Yes/No

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