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Crl.O.P.No.18489 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.18489 of 2023

And

Crl.M.P.Nos.12315 and 12316 of 2023

S.Bhanumathi

... Petitioner

Vs.

R.Surulivel

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records in STC.No.5999 of 2022 before the file of learned XXV Metropolitan Magistrate, Egmore, Chennai and quash the same as far as this petitioner.

For Petitioner : M/s.M.Kruthika
For Respondent : No Appearance

ORDER

The criminal original petition has been filed to quash the proceedings in S.T.C.No.5999 of 2022 on the file of the learned XXV Metropolitan Magistrate, Egmore, Chennai in so far as the petitioner(A2) is concerned.



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2.The respondent/ complainant has filed a complaint against the petitioner and her husband for offence under Section 138 of the Negotiable Instruments Act. According to the petitioner, she is not the drawer of the cheque and inspite of the same, she has been made as an accused in the case. The same has been put to challenge in the present quash petition.

3.This Court heard the learned counsel for the petitioner. The respondent has been served with notice and the name of the respondent has also been printed in the cause list. There is no representation either in person or through counsel.

4.The only issue that arises for consideration is as to whether the complaint filed by the respondent can be prosecuted against the petitioner.

5.The cheques have been issued only by A1 in his individual capacity and the same is apparent from the copy of the cheques that have been filed before this Court. It is trite that only the drawer of the cheque can be prosecuted and admittedly, the petitioner (A2) is not



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the drawer of the cheque. Therefore, the continuation of the criminal proceedings as against the petitioner will result in abuse of process of Court which requires the interference of this Court.

6.In the result, the proceedings in S.T.C.No.5999 of 2022 on the file of the learned XXV Metropolitan Magistrate, Egmore, Chennai, is quashed in so far as the petitioner is concerned. The Court below shall proceed further with the complaint as against A1 and shall dispose of S.T.C.No.5999 of 2022 within a period of four months from the date of receipt of a copy of this order.

7.In the result, this criminal original petition is allowed with the above directions. Consequently, the connected miscellaneous petitions are closed.

05.02.2024

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



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N.ANAND VENKATESH,J.
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To

- 1.The XXV Metropolitan Magistrate,
Egmore, Chennai.
- 2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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And
Crl.M.P.Nos.12315 and
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