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Crl.O.P.No.24229 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL.O.P.No.24229 of 2022 and
Crl.M.P.Nos.15356 & 15357 of 2022

M.Sangeetha

... Petitioner

Vs.

R.Mathesh

... Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in S.TC.No.1850 of 2019 on the file of the Judicial Magistrate, Uthangarai and quash the charges made in the final report filed in S.T.C.No.1850 of 2019.

For Petitioner : Mr.S.Kingston Jerold

For Respondent : Mr.E.Kannadasan

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.1850 of 2019 on the file of the Judicial Magistrate, Uthangarai, which was taken cognizance under Section 138 of Negotiable Instruments Act.



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2. According to the petitioner, the respondent filed a complaint against the petitioner under Section 138 of Negotiable Instruments Act and alleging that in the month of February 2019, the petitioner borrowed a sum of Rs.5,00,000/- as hand loan and on 10.03.2019 she issued cheque of Pallavan Grama Bank, Anandur Branch. The said cheque was presented for collection and it was returned as "Insufficient Funds". Hence, the respondent had issued notice on 19.08.2019 and the petitioner issued a reply dated 31.08.2019, since the petitioner has not repaid the money and the respondent herein lodged a complaint and the same was taken cognizance in STC.No.1850 of 2019 on the file of the Judicial Magistrate, Uthangarai. The above said complaint has been filed with false averments and frivolous reasons. The petitioner is a teacher by profession and the respondent due to the prior enmity with the husband of the petitioner, filed a false complaint against the petitioner. Without any relationship between the petitioner and the respondent as creditor and debtor, a false complaint has been foisted against the petitioner. Therefore, the complaint lodged by the respondent is clear abuse of process of law. The petitioner on 03.06.2015, gave a letter to the Bank manager one Mr.Senthilkumar stating that the petitioner issued two cheques, one Senthil is trying to misuse the same, therefore, the petitioner has requested the manager



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to stop the payment if any made by using the said cheques. The cheque was stolen and the same was reported before the concerned bank and duly stop payment was made and after the period of lapse of 4 years, the cheque has been misused, thereby the pending proceedings are abuse of process of law. Therefore, the pending proceedings in S.T.C.No.1850 of 2019 is liable to be quashed.

3. The learned Counsel for the petitioner would contend that the petitioner has been falsely implicated in this case and there is no relationship between the petitioner and the respondent as creditor and debtor and the cheque has not been issued for legally enforceable debt. The respondent filed a false complaint against the petitioner. The cause of action mentioned in the petition is also false, already the petitioner issued a notice on 19.06.2015 and the respondent also filed another proceedings under section 138 of Negotiable Instrument Act in S.T.C.No.606 of 2015 on the file of the District Judicial Magistrate, Pochampalli. Therefore, the pending proceedings in S.T.C.No.1850 of 2019 is abuse of process of law and the same is liable to be quashed.



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4. The learned Counsel for the Respondent would contend that already in this case witnesses were examined, the petitioner was also cross-examined and nothing elucidated from the witness in respect of these grounds raised by this petitioner. Now, the petitioner has filed this present Criminal Original Petition only to drag on the proceedings. At this stage, the petitioner has to face the trial, and hence this petition is liable to be dismissed.

5. Heard both side. Perused all the materials available on record.

6. It is the admitted fact that the case is posted for examination of further witnesses and already P.W.1 was examined. Now, the petitioner produced some documents before this Court and those documents have not been produced before the Trial Court. Even this Court relied those documents, an opportunity has to be given to other side to test the genuineness of the documents through cross-examination. While so, it is not proper to entertain those documents while hearing the present petition filed under section 482 of Cr.P.C. Therefore, the petitioner can approach the trial Court to produce those documents in accordance with law. The grounds raised by the petitioner are nothing but the defence to be taken before the Trial Court. Therefore, the petitioner is at liberty to approach the trial Court for getting appropriate remedy



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in accordance with law.

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7. In view of the above discussion, this Court is of the opinion that this petition has no merits and deserves to be dismissed. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

20.09.2024

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
gvn

To

1. The Judicial Magistrate, Uthangarai

2.The Public Prosecutor,
High Court of Madras



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P.DHANABAL,J.

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