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Crl.O.P.No.22698 of 2023

In the High Court of Judicature at Madras

Dated : 14.3.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition No.22698 of 2023
& Crl.M.P.Nos.15858 & 15859 of 2023

1.A.Sultan

2.A.Mohamed Suhail

...Petitioners

Vs

A.Vinodha Kumar

...Respondent

PETITION under Section 482 of the Criminal Procedure Code
praying to call for the records relating to the complaint in S.T.C.No.56
of 2022 on the file of the Judicial Magistrate (Fast Track Court), Hosur
and quash the same as far as the petitioners are concerned.

For Petitioners : Mr.V.Sakkarapani
For Respondent : Mr.T.Raghavan

ORDER

This is a petition filed by the petitioners seeking to quash the
proceedings in S.T.C.No.56 of 2022 on the file of the Judicial
Magistrate (Fast Track Court), Hosur.



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2. Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent.

3. The respondent filed a complaint against the petitioners for an offence under Section 138 of the Negotiable Instruments Act. According to the respondent, he paid a hand loan to the tune of Rs.7 lakhs and on receipt of the same, the petitioners executed a promissory note. They also gave a cheque for Rs.7 lakhs dated 10.3.2021 to the respondent. When this cheque was presented for collection, it was dishonoured with an endorsement 'payment stopped by the drawer'. After exchange of statutory notices, the complaint came to be registered before the Court below.

4. In the instant case, the cheque has been signed by the first petitioner (A1). In so far as the second petitioner (A2) is concerned, he has been added as an accused since he was also a signatory under the promissory note and it was a joint liability for both the petitioners.



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5. In the considered view of this Court, only the drawer of the cheque can be made as an accused. Admittedly, the drawer of the cheque in this case is the first petitioner. Hence, even assuming that the second petitioner had signed the promissory note and that it was a joint liability, the second petitioner cannot be made as an accused in this case. Hence, the continuation of the proceedings as against the second petitioner will have to be interfered by this Court.

6. In so far as the first petitioner is concerned, the grounds that were raised by the learned counsel for the petitioners are all factual in nature and they cannot be gone into by this Court in exercise of its jurisdiction under Section 482 of the Criminal Procedure Code. The first petitioner must raise all the grounds only before the Court below.

7. In the result, the criminal original petition is partly allowed and the proceedings in S.T.C.No.56 of 2022 on the file of the Judicial Magistrate (Fast Track Court), Hosur is quashed in so far as the second petitioner (A2) is concerned. The proceedings before the Court below can continue as against the first petitioner (A1) and both



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the parties can raise all the grounds before the Court below. The entire proceedings before the Court below shall be completed within a period of four months from the date of receipt of a copy of this order. Consequently, the connected Crl.M.Ps. are closed.

14.3.2024

To

1.The Judicial Magistrate (Fast Track Court), Hosur.

2.The Public Prosecutor,
High Court, Madras.

RS



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N.ANAND VENKATESH,J

RS

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