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CrI.O.P.No.30709 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.30709 of 2024

and

CrI.M.P.Nos.17476 and 17478 of 2024

S.Sri Nandhini

... Petitioner

Vs.

A.Jamal Theen

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./528 of BNSS, 2023, to call for the records relating to S.T.C.No.1190 of 2023 on the file of the Judicial Magistrate No.II, Chengalpattu and quash the same.

For Petitioners : Mr.Syed Mazhar Hayath

ORDER

This Criminal Original Petition has been filed to quash the complaint in S.T.C.No.1190 of 2023 on the file of the Judicial Magistrate Court No.II, Chengalpattu.



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2. The respondent herein filed a private complaint under Section 190(1)(a) Cr.P.C., against the petitioner herein for the offence under Section 138 of Negotiable Instruments Act, 1881 in S.T.C.No.1190 of 2023 on the file of the Judicial Magistrate Court No.II, Chengalpattu. Pending Summary Trial Case, the petitioner/accused has filed the present petition to quash the said complaint.

3. Learned counsel for the petitioner/accused submitted that the petitioner is the correspondent of the School viz., Seshavalli Vaishnav Nursery and Primary School. The respondent herein is running a tailoring and clothing business in the name and style of INAA Uniforms. Based on the request made by the respondent, the petitioner has given order for stitching uniforms orders and etc., and the total value of the purchase order is for a sum of Rs.3,71,100/-. The petitioner has paid a sum of Rs.90,100/- and the petitioner sought time for further payment of Rs.2,81,000/-. However, due to continuous demand made by the respondent, the petitioner has issued two cheques for discharge her liabilities. He further submitted that as the materials supplied by the respondent was not in good quality, the petitioner returned the materials to the respondent worth about sum of Rs.1,48,000/- and the same was



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duly received and acknowledged by the respondent.

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4. Learned counsel for the petitioner further submitted that the transaction between the petitioner and the respondent was a commercial transaction and cheques were issued in the name of the Company. However, the respondent presenting the cheques in the name of the individual person and claiming the transaction in the name of the Company cannot be sustainable. Further, on his individual capacity the respondent filed the complaint against the petitioner, therefore, the complaint itself is not maintainable.

5. On a perusal of the records it is seen that the petitioner/accused has not produced the copy of the cheques to prove that the cheques were issued on behalf of the Company and not in the name of the individual. When the respondent/complainant sent notice to the petitioner on 02.12.2022, the petitioner evaded to receive the said notice and the same was returned as unclaimed on 12.12.2023. Further, the petitioner also not sent any reply to the notice issued by the respondent. Therefore, this Court does not find any reason to quash the complaint against the petitioner/accused and the grounds taken by the petitioner is matter for



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trial. Therefore, the petitioner/accused is at liberty to take all defences before the trial Court in S.T.C.No.1190 of 2023.

6. In view of the above, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

10.12.2024

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To
The Judicial Magistrate No.II,
Chengalpattu.



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P.VELMURUGAN, J

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