



CRL OP(MD). No.2112 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 31.01.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD). No.2112 of 2022 and
Crl.M.P.(MD) Nos.1581 and 1582 of 2022**

1. Somasundara Pandiyan,

2. Natcheeswari,

... Petitioners

Vs

R. Santha,

... Respondent

PRAYER :- Criminal Original Petition is filed under Section 482 Cr.P.C. to call for the entire records pertaining to the STC.No. 137/2021 pending in the file of Fast Track Court II (Judicial Magistrate), Madurai and quash the same.

For Petitioners : M/s. Ramasamy.R.,

For Respondent : Mr.B. Mahendrarajan

ORDER

This petition has been filed seeking to quash the charge sheet in STC.No.137 of 2021 filed for the offence punishable under Section 138 of the Negotiable Instruments Act on the file of the learned Judicial



CRL OP(MD). No.2112 of 2022

Magistrate, No.II, Madurai.

WEB COPY

2. The case of the complainant is that the petitioners are husband and wife. They borrowed a sum of Rs.8 lakhs on various occasions and failed to pay back the same. They have also issued a post dated cheque in pursuance of the said receipt of money. However, even after one year of the alleged receipt of money, since they have not repaid the amount, the complainant said to have presented the cheques in question, however, the same were dishonoured and hence, on the complaint made by the complainant, the present petition came to be filed for initiating proceedings under Section 138 of the Negotiable Instruments Act. For quashing the said proceedings, the petitioners are before this Court.

3. The learned counsel for the petitioners would submit that the petitioners have nothing to do with the alleged act of borrowal and they have been falsely implicated. He would further submit that the petitioners did not receive any amount as alleged by the complainant as debt, instead, the petitioners were a party to the chit run by the complainant. Since in the second month of bid, ie., after payment of the chit amount in



CRL OP(MD). No.2112 of 2022

the second month itself, the petitioners have been successful during the bid and accordingly, they have obtained the bid amount and hence, for that purpose alone, the cheque in question was issued as a security for the petitioners paying the remaining installments for the chit. He would further submit that the cheque in question was also issued only for a meagre sum. He would further submit that the dates that are mentioned in the complaint are contradictory in nature and the dates and the amount mentioned therein were also not matching and hence, he would submit that the complaint itself is a concocted one and necessarily the proceedings have no legs to stand and hence, prays for interference.

4. However, the learned counsel for the respondent would submit that there are materials available to proceed with the case as against the petitioners herein. He would further submit that the petitioners have obtained the amount in question for the marriage of their daughter and hence, at the threshold, the proceedings under Section 138 of the NI Act cannot be quashed and the charges against the petitioners have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.



CRL OP(MD). No.2112 of 2022

5. From the submissions and perusal of records, it is seen that the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners, if they are subjected to due trial as sufficient opportunity would be given to them to put forth their defence. The petitioners cannot be let by quashing the charges framed against them as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against them. Further, the disputed questions of facts could not be gone into under Section 482 Cr.P.C. and it has to be agitated only before the trial court. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in *State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*.

6. For the reasons aforesaid, this Court finds no ground or scope to quash STC.No.137 of 2021, pending on the file of the learned Fast Track Court II (Judicial Magistrate), Madurai. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.



CRL OP(MD). No.2112 of 2022

7. The learned counsel appearing for the petitioners submitted that this Court may consider dispensing with the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days.

31.01.2024

RR

To
The Fast Track Court II (Judicial Magistrate),
Madurai



WEB COPY



CRL OP(MD). No.2112 of 2022

M.DHANDAPANI. J

RR

**ORDER
IN
CRL OP(MD) No.2112 of 2022**

Date : 31.01.2024