



Crl.O.P.(MD)No.7239 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 06.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.7239 of 2022 and
Crl.M.P.(MD).No.4961 of 2022

R.Dhanapalan ... Petitioner/accused No.3

Vs.

Karthiyayinii ...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the complaint in S.T.C.No.41 of 2018, on the file of the learned Judicial Magistrate No.I, (Fast Track Court at Magisterial Level), Madurai and quash the same.

For petitioner : Mr.C.Mayilvahana Rajendran

For Respondent : M/s.C.Nihi Nandha
for Mr.S.Karthick

ORDER

This petition has been filed seeking to quash the charge sheet in STC.No. 41 of 2018, on the file of the learned Judicial Magistrate No.I, (Fast Track Court at Magisterial Level), Madurai.



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2. The case of the prosecution is that the petitioner is arrayed as A2. It is alleged in the complaint that the cheque in question was issued by A1, who is none other than the wife of the petitioner herein, on the advise of the petitioner herein for a sum of Rs.60 lakhs and when it was presented, the same was returned as funds insufficient and hence, the complaint has been given followed by a notice dated 07.08.2017. Hence, the proceedings came to be initiated, for quashing which, the petitioner is before this court.

3. The learned counsel for the petitioner would submit that the petitioner has nothing to do with the alleged and he has been falsely implicated. He would further submit that the cheque was neither issued by the petitioner nor he is the signatory of the cheque and hence, he is not vicariously liable under Section 141 of the Negotiable Instruments Act and hence, the proceedings have to be quashed and prays for interference.

4. The learned counsel for the respondent would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the proceedings under Section 138 of the NI Act cannot be quashed and the charges against the petitioner has to be



gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. 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 petitioner, if he is subjected to due trial as sufficient opportunity would be given to him to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. 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. 41 of 2018, on the file of the learned Judicial Magistrate No.I, (Fast Track Court at Magisterial Level), Madurai. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is dismissed.



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7. The learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his 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 petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

06.03.2024

Index : Yes/No

Internet : Yes/No

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To

1. The Judicial Magistrate No.I,
(Fast Track Court at Magisterial Level),
Madurai

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

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