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Crl.O.P.(MD)No.16466 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

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

Crl.O.P.(MD) No.7288 of 2022 and

Crl.M.P.(MD).No.4998 of 2022

Ravanak Begam

... Petitioner/Accused

Vs.

Gopinath

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in C.C.No.355 of 2022, on the file of the Judicial Magistrate, No.I, Dindigul and quash the same and consequential further proceedings against the petitioner.

For petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondent : Mr.B.Prasanna Vinoth

ORDER

This petition has been filed seeking to quash the charge sheet in C.C.No.355 of 2022 filed for the offence punishable under Section 138 of the Negotiable Instruments Act on the file of the learned Judicial Magistrate, No.I, Dindigul.



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2. The case of the prosecution is that the petitioner and the respondent were friends. While so, on that strength, the petitioner said to have borrowed a sum of Rs.12,00,000/- from the complainant and has also issued a post dated cheque for the same. While the cheque was presented, it was dishonoured and 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 she has been falsely implicated. He would further submit that though the petitioner has borrowed a sum of Rs.12 lakhs, the petitioner has repaid Rs.5,00,000/- in cash and has also paid through bank transactions also and the petitioner has also issued cheques and paying installments every month to the complainant and is also paying principal amount now and then. While so, the complainant is demanding exorbitant interest 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 she is subjected to due trial as sufficient opportunity would be given to her to put forth her defence. The petitioner cannot be let by quashing the charges framed against her as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against her. 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 C.C.No.355 of 2022, pending on the file of the learned Judicial Magistrate, No.I, Dindigul. 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 her 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 her appearance on those days.

12.03.2024

Index : Yes/No

Internet : Yes/No

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To

1. The Judicial Magistrate, No.I,Dindigul

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



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M.DHANDAPANI. J.

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