



Crl.O.P.(MD)Nos.11729 and 11738 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **11.03.2024**

CORAM:

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

Crl.O.P.(MD) Nos.11729 and 11738 of 2022
and
Crl.M.P(MD).Nos.7392 and 7398 of 2022

K.Ganesan

... Petitioners
in both Crl.O.Ps.

Vs.

S.Karthick Krishnaraj

... Respondent
in Crl.O.P(MD).No.11729 of 2022

K.Sandhya

... Respondent
in Crl.O.P(MD).No.11738 of 2022

COMMON PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in S.T.C.Nos.126 and 127 of 2022 on the file of the District Munsif Cum Magistrate Court, Srirangam and quash the same.

For petitioner
(in both Crl.O.Ps)
For Respondent
(in both Crl.O.Ps)

: M/s.B.Asha
: Mr.E.K.Kumaresan



COMMON ORDER

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These petitions have been filed seeking quashment of the S.T.C.Nos.126 and 127 of 2022 on the file of the District Munsif Cum Magistrate Court, Srirangam.

2. The petitioner is now working in Intelligence Bureau at Nellore City, Andhra Pradesh. The respondent Karthick and petitioner were worked together at Karur, during the year 2012. The petitioner's son Surya and the respondent in Crl.O.P(MD).No.11738 of 2022, namely, Sandhya got acquaintance with each other. The respondent's wife Sandhya/ respondent in Crl.O.P(MD).No.11738 of 2022 borrowed a sum of Rs.9,85,000/- on various dates from the petitioner's son to meet out her family expenses and she signed in a promissory note. The said Sandhya repaid the said amount to the petitioner's son through RTGS.

3. While the petitioner's son Surya was in judicial custody in some other case, the respondents went to the petitioner's house and threatened the petitioner and borrowed a sum of Rs.9,85,000/- and also forcibly got a cheque leaf of the petitioner. Thereafter, they presented the cheque before the bank and the same was returned. Therefore, they filed the



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present complaints before the District Munsif Cum Magistrate Court, Srirangam in S.T.C.Nos.126 and 127 of 2022. Challenging the same, the present petitions have been filed.

4. The learned counsel for the petitioner submitted that the petitioner's son Surya was in judicial custody in some other case, the respondents went to the petitioner's house and threatened the petitioner and borrowed a sum of Rs.9,85,000/- and also forcibly got a cheque leaf of the petitioner. Thereafter, they presented the cheque before the bank and the same was returned. Therefore, she filed the present complaint and the offence under Section 138 of Negotiable Instrument Act is not applicable in these Cases and without considering the entire facts, the trial Court taken the cases on file.

5. The learned counsel for the petitioner submitted that the cheque was taken away by the respondents on 28.08.2021 and she lodged a police complaint on 17.10.2021, the same was not taken on file and after lapse of several months, they filed the present private complaints before the District Munsif Cum Magistrate Court, Srirangam in S.T.C.Nos.126 and 127 of 2022. The delay in filing the private complaints were not disclosed by the respondents before the concerned Court.



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6. Heard the learned counsel for the respondent and perused the materials available on record.

7. A perusal of records it is alleged that cheque was taken away by the respondents on 28.08.2021 and she lodged a police complaint on 17.10.2021, the same was not taken on file and after lapse of several months, they filed the present private complaints before the District Munsif Cum Magistrate Court, Srirangam in S.T.C.Nos.126 and 127 of 2022. Even filing the complaint before the law enforcing agency, the respondents have not disclosed the cheque details. While filing the complaint before the District Munsif Cum Magistrate Court, Srirangam in S.T.C.Nos.126 and 127 of 2022, the respondents have not given any details with regard to the cheque and delay in filing the complaints. Even then, all those issues are triable issues, which cannot be tried before this Court under Section 482 of Cr.P.C. and it can be canvassed only at the time of trial.

8. Accordingly, these Criminal Original Petitions are dismissed. Consequently, the connected miscellaneous petitions are closed. At this juncture, the learned counsel appearing for the petitioner would submit



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that this Court may consider to dispense with the personal appearance of the petitioners before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, 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.

11.03.2024

Index : Yes/No
Internet : Yes/No
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To

The District Munsif Cum Magistrate Court, Srirangam.



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M.DHANDAPANI, J.

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