



CRL OP(MD). No.12209 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 23.02.2024

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The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.12209 of 2022 and
Crl.M.P(MD) Nos.7724 and 7726 of 2022**

S. Muneeswari ... Petitioner

Vs

R. Kala ... Respondent

PRAYER :- Criminal Original Petition filed under section 482 of Cr.P.C., to call for the records pertaining to the case in S.T.C. No. 339 of 2022 on the file of the Judicial Magistrate No.II, FTC Magistrate Level, Madurai and quash the same against the petitioner.

For Petitioner : M/s.R. Narayanan

For Respondent : M/s. M. Kannan

ORDER

This petition has been filed seeking to quash the case in S.T.C. No. 339 of 2022 on the file of the Judicial Magistrate No.II, FTC Magistrate Level, Madurai.

2. The case of the prosecution is that for the legally enforceable debt, the petitioner said to have given cheques to the respondent. It is



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alleged that when it was presented, the same got dishonoured and hence, the complaint has been given followed by a notice. 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 though the cheque was issued by the petitioner for the legally enforceable debt, even after repayment of the said amount, the respondent, in order to extract money on exorbitant interest, initiated the present proceedings. It is also the case of the petitioner that for return of the alleged cheques in question, a police complaint said to have preferred by the petitioner, however, even after the said complaint, the cheques in question were not handed over to the petitioner. Hence, he would submit that the proceedings are liable to be quashed.

4. The learned counsel for the respondent would submit that there are materials available to proceed with the case as against the petitioner



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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 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 S.T.C. No. 339 of 2022 on the file of the Judicial Magistrate No.II,



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FTC Magistrate Level, Madurai. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.

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.

23.02.2024

NCC : Yes/No

Index : Yes/No

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TO

The Judicial Magistrate No.II,
FTC Magistrate Level, Madurai

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M.DHANDAPANI. J

RR

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