



Crl.O.P.(MD)No.16243 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.16243 of 2024

and

Crl.M.P.(MD)Nos.10226 and 10227 of 2024

J.Selva Lakshmi

... Petitioner

Vs.

A.Ganesan

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S., to call for the records pertaining to the case in S.T.C.No.38 of 2024 on the file of Judicial Magistrate No.II (Fast Track Court at Magisterial Level), Madurai and quash the same as against this petitioner.

For Petitioner : Mr.S.Ramasamy

ORDER

The Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to quash the private complaint in S.T.C.No.



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38 of 2024 pending on the file of the Judicial Magistrate No.II (Fast Track Court at Magisterial Level), Madurai.

2. The respondent has filed a private complaint against SPM Velan Finance Limited and the petitioner under Section 200 Cr.P.C. for the alleged offences under Sections 138 r/w 141, 142 and 143-A of Negotiable Instruments Act and the learned Magistrate, after completing necessary formalities, has taken the case on file in S.T.C.No.38 of 2024.

3. The case of the respondent is that the petitioner had borrowed a loan of Rs.8,00,000/- from the respondent on 22.08.2022 and the petitioner had issued a cheque dated 01.10.2023 for Rs.8,00,000/- and also the petitioner and her husband executed a promissory note for the above said amount, that when the respondent has presented the cheque for collection on 04.10.2023, the same was dishonored with reason “Funds Insufficient”, that the respondent sent the legal notice and that thereafter the respondent has filed the private complaint.

4. The main contention of the petitioner is that the disputed cheque has been given only for security purposes, that too not to the respondent



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and that the respondent has utilized the cheque to extract money from the petitioner. Even assuming that the cheque has been issued for security purposes, that by itself is not a ground to quash the complaint. Except the above, the petitioner has not canvassed any other reason or ground to impugn the private complaint.

5. The Hon'ble Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others*** reported in ***1992 SCC (Cri) 426*** has enumerated 7 categories of cases, where the power can be exercised under Section 482 of Code of Criminal Procedure and the same are extracted hereunder:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any



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precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a



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Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. In ***Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others*** reported in ***2019 (18) SCC 191***, the Hon'ble Apex Court has specifically held that exercise of powers under Section



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482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is settled law that the inherent jurisdiction under Section 482 Cr.P.C. is wide but at the same time, the same is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.

7. The Hon'ble Supreme Court in ***Kaptan Singh Vs. The State of Uttar Pradesh and others*** reported in ***2021 (3) Crimes 247*** has stated that, that Court in catena of decisions has observed that the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial and that question is required to be examined keeping in view, the contents of FIR/complaint and *prima facie* materials, if any, requiring no proof and at such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR/complaint and materials relied on.

8. A cursory perusal of the private complaint and the statements filed along with the private complaint would make it clear that there existed a *prima facie* case to proceed against the petitioner.



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9. Considering the above and also taking note of the fact that this is not a fit case to quash the charge sheet against the petitioner, this Court is not inclined to grant the relief claimed.

10. In the result, this Criminal Original Petition stands dismissed.
Consequently, connected Miscellaneous Petitions are closed.

26.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

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



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K.MURALI SHANKAR,J.

csn

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