



CrI.O.P.No.28050 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.28050 of 2024 and

CrI.M.P. No.15588 of 2024

M.Hari Priyaa

... Petitioner

Vs.

R.R.Balasubramaniam

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to call for the records in S.T.C.No.433 of 2024 on the file of the Judicial Magistrate FTC-I, Erode and quash the same.

For Petitioner : Mr.M.Guruprasad

For Respondent : Mr.S.Suresh



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ORDER

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This Criminal Original Petition has been filed by the petitioner/accused to quash the complaint in S.T.C.No.433 of 2024 on the file of the Judicial Magistrate FTC-I, Erode.

2. The case of the petitioner is that at the time of entering into the business of A1/partnership firm, the petitioner was a minor and hence, she was represented by her father cum guardian/A2. Further, the petitioner retired from the A1/partnership firm as a partner effective from 01.04.2019 and she is no way connected with the business affairs of A1/partnership firm.

3. According to the respondent, all the partners of A1/partnership firm borrowed hand loan from the respondent and to discharge the liability, they issued two post dated cheques and when the cheques were presented in the Bank for collection as per the instructions of the accused, the same were dishonored for the reasons "Account Closed". The petitioner who has been arrayed as A4, is one of the partners in the A1/partnership firm and that the



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petitioner also actively participated in the day to day affairs of the

A1/partnership firm and therefore, the petitioner is also liable to pay to the respondent. Though in the year 2013 the petitioner was shown as a minor, subsequently after attaining majority, she also continued as a partner. Now the petitioner has created documents as if, she had retired as a partner from the A1/partnership firm for the purpose of escaping from the clutches of law.

Therefore, this petition is liable to be dismissed.

4. Heard both sides and perused the materials available on record.

5. It is seen that the respondent has filed the complaint in S.T.C.No.433 of 2024 before the Judicial Magistrate FTC-I, Erode, under Section 138 & 142 of the Negotiable Instruments Act, in which, A1 is the partnership firm. A2 to A4 are the partners of A1/partnership firm.

6. The learned counsel for the petitioner produced the certified copy of the subject cheques in which, the second accused has signed as a partner of A1/partnership firm. Further, the respondent has not filed any document to



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show that the petitioner/A4 also participated in the day to day affairs of the A1/partnership firm.

7. Criminal Liability cannot be fastened against the partners/directors who did not participate in the day to day affairs of the partnership firm, but it can be only fastened against the company and the Manager/Director of the company/partnership firm who actively participated in the day to day affairs of the company/partnership firm.

8. In this case, none of the materials shows that the petitioner actively participated in the day to day affairs of A1/partnership firm. The partners who actively participated in the day to day affairs of A1/partnership firm have already been arrayed as A2 and A3. In the absence of any materials to show that the petitioner actively participated in the A1/partnership firm, the complaint against the petitioner/A4 is liable to be quashed.

9. Accordingly, the complaint against the petitioner in S.T.C.No.433 of 2024 on the file of the Judicial Magistrate FTC-I, Erode, **is quashed.**



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10. With the above observations, this Criminal Original Petition is

allowed. Consequently, connected Miscellaneous Petition is closed.

20.01.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

The Judicial Magistrate FTC-I,
Erode



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P.VELMURUGAN. J.

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