

Crl.O.P.(MD)No.1961 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2025

CORAM :

THE HON'BLE MR.JUSTICE P. DHANABAL

Crl.O.P.(MD)No.1961 of 2025

and

Crl.M.P.(MD) Nos.1336 & 1338 of 2025

Parvathy

... Petitioner

Vs

R.Nagarajan

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of BNSS to call for the records in connection with the case in S.T.C.No.1299 of 2024 on the file of the learned Judicial Magistrate No.II, Ramanathapuram and consequently quash the same as illegal and devoid of merits in respect of the petitioner.

For petitioner : Mr. J.Sankarapandian

For respondent : Mr.P.Suresh

ORDER

This petition is filed by the petitioner to quash the proceedings in S.T.C.No.1299 of 2024 on the file of the learned Judicial Magistrate



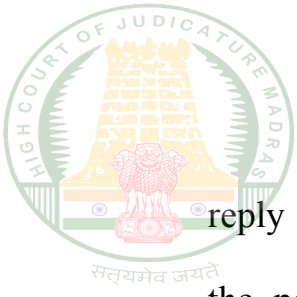
Crl.O.P.(MD)No.1961 of 2025

No.II, Ramanathapuram.

WEB COPY

2. The learned counsel for the petitioner would submit that the petitioner is the accused in S.T.C.No.1299 of 2024 on the file of the learned Judicial Magistrate-II, Ramanathapuram and the respondent herein filed a cheque complaint against the petitioner and another and the same was taken on file by the Trial Court in S.T.C.No.1299 of 2024. In fact, the name of the petitioner has been falsely implicated in this case. The petitioner has no role to play in the above transaction and even according to the respondent's case, it is a joint account of the petitioner and her husband and the cheque was issued and it was signed only by the first accused and not by the petitioner. Therefore, the petitioner is no way liable for the cheque issued by the first accused, without signing in the cheque. Therefore, pending proceedings are liable to be quashed.

3. The learned counsel for the respondent would submit that the petitioner and her husband are the joint account holder and her husband issued the cheque dated 24.07.2024 and the same was presented for collection and the same was returned as 'insufficient fund' on 25.07.2024. Thereafter, issued notice to the petitioner on 07.08.2024 and received



reply from the petitioner on 06.09.2024 with false allegations. Therefore, the petitioner and her husband, after knowing that there was no any sufficient fund issued the cheque. Thereby, they committed offence. Therefore, the petition is liable to be dismissed.

4. This Court heard both sides and perused the records.

5. In this case, the respondent herein filed the cheque complaint against the petitioner and her husband and the same is pending in S.T.C.No.1299 of 2024 on the file of the learned Judicial Magistrate-II, Ramanadhapuram. There is no dispute that the cheque was issued by the petitioner's husband and the petitioner is not a signatory to the cheque. Though the account is a joint account, without signature of the petitioner, she is not liable for any criminal case.

6. This Court also, in several cases, quashed the proceedings on the ground that without signature of the joint account holder, Section 138 of Negotiable Instruments Act proceedings cannot be initiated. In this case also, even as per the complaint, the petitioner is not a signatory to the cheque. Only because the petitioner is the joint account holder, without her



signature in the cheque, she could not included in the offence under Section 138 of the NI Act. Therefore, the pending proceeding is liable to be quashed.

7. In ***Alka Khandu Avhad vs. Amad Syamprasad Mishra and another*** reported in ***(2021) 4 SCC 675***, the Hon'ble Supreme Court held in para No.10 as follows:

“Therefore, a person who is the signatory to the cheque and the cheque is drawn by that person on an account maintained by him and the cheque has been issued for the discharge, in whole or in part, of any debt or other liability and the said cheque has been returned by the bank unpaid, such person can be said to have committed an offence. Section 138 of the NI Act does not speak about the joint liability. Even in case of a joint liability, in case of individual persons, a person other than a person who has drawn the cheque on an account maintained by him, cannot be prosecuted for the offence under Section 138 of the NI Act. A person might have been jointly liable to pay the debt, but if such a person who might have been liable to pay the debt jointly, cannot be prosecuted unless the bank account is jointly maintained and that he was a signatory to the cheque.”

8. On a careful perusal of the said case law, it is clear that in case of joint liability, a person might have been jointly liable to pay the debt, but if



Crl.O.P.(MD)No.1961 of 2025

such a person who might have been liable to pay the debt jointly, cannot be prosecuted unless the bank account is jointly maintained and that he was a signatory to the cheque. In this case, the petitioner is not a signatory to the cheque and she has not issued the cheque in her name. Therefore, the said case law is squarely applicable to the facts and circumstances of this case.

9. In view of the same, this Criminal Original Petition is allowed and the pending proceedings in S.T.C.No.1299 of 2024 on the file of the learned Judicial Magistrate No.II, Ramanathapuram, is quashed as against the petitioner alone. Consequently connected miscellaneous petitions are closed.

28.04.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes

apd

To

1.The Judicial Magistrate No.II,
Ramanathapuram.

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

5/6



WEB COPY



Crl.O.P.(MD)No.1961 of 2025

P. DHANABAL, J.,

apd

Crl.O.P.(MD)No.1961 of 2025

28.04.2025