



Crl.O.P.(MD) No.452 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.452 of 2024

and

Crl.M.P.(MD) Nos.278 & 279 of 2024

Beema

... Petitioner

Vs.

Muthupeachi

... Respondent

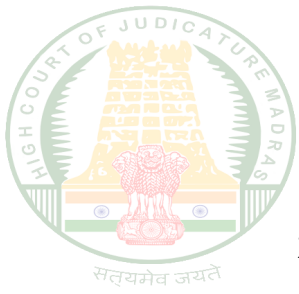
PRAYER : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, 1973/Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the entire records connected to the proceedings in S.T.C.No.8657 of 2022 on the file of the learned Judicial Magistrate No.IV, Tiruchirappalli and quash the same against the petitioner as illegal.

For Petitioner : Mr.R.Alagumani

For Respondent : Mr.A.Punithan

ORDER

The petitioner, who is arrayed as A2 in a private complaint in S.T.C.No.8657 of 2022, has filed this petition seeking to quash the complaint against her.



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2. It is the case of the respondent/complainant that the petitioner along with her husband, who is arrayed as A1, had obtained a loan of Rs.40,00,000/- and executed a promissory note and that towards the said liability, they issued a cheque dated 27.09.2022 for Rs.40,00,000/- in favour of the respondent/complainant.

3. It is further alleged that when the cheque was presented for collection, it was returned with an endorsement 'funds insufficient' and in spite of statutory notice, the petitioner's husband did not make the payment and hence committed an offence under Section 138 of the Negotiable Instruments Act, 1881.

4. The learned counsel for the petitioner would submit that admittedly, the cheque was drawn from the account maintained by A1, the petitioner's husband, who signed the cheque, and therefore, the offence under Section 138 of the Negotiable Instruments Act, 1881 would not be attracted as against the petitioner, who is not the signatory to the cheque.

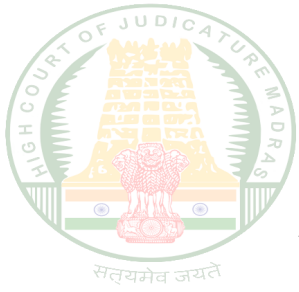
5. The learned counsel for the respondent/complainant, per contra, would submit that both the accused had jointly obtained the loan and



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handed over the cheque and that it is not clear from the cheque as to from which account the cheque was issued, though the petitioner claims that it was her husband's cheque. The learned counsel would further submit that even in the reply notice, the petitioner had not stated that the cheque was not drawn from the account maintained by her and that it was drawn from the account of her husband, i.e., A1.

6. Though the copy of the cheque was not filed along with this quash petition, the copy of the cheque was produced before this Court at the time of hearing. A perusal of the said cheque indicates that there is only one signature on the cheque. According to the petitioner, it is the signature of A1, namely, her husband, drawn from the account maintained by him. The cheque does not clearly indicate as to whose signature has been affixed on the cheque or whether it is a joint account, etc. No doubt, if the petitioner's case is accepted, she would not be liable for the offences under Section 138 of the Negotiable Instruments Act, 1881. However, this factual dispute cannot be adjudicated in this quash petition. It is needless to state that the learned Judicial Magistrate shall consider this aspect while appreciating the case of the petitioner.



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7. Considering the fact that the petitioner is the wife of A1, this Court dispenses with the petitioner's appearance on all hearing dates except when her presence is required for the progress of the trial.

8. With the above observations, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

01.09.2025

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order/Non-Speaking Order

Copy To:

The Judicial Magistrate No.IV,
Tiruchirappalli.



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SUNDER MOHAN, J.

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