

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF OCTOBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE M.I.ARUN

CRIMINAL PETITION NO.2129 OF 2019

BETWEEN:

SMT. VEENASHRI,
W/O. D.V. KESHAV,
AGED ABOUT 36 YEARS,
NOW, R/AT.NO.488, THYAGAMARGA,
6TH CROSS, 2ND STAGE,
SIDDARTH LAYOUT,
MYSURU-570 011.

...PETITIONER

(BY SRI.P.N. MANMOHAN, ADVOCATE)

AND

SRI. SHANKAR,
S/O GANGADHARASA,
R/AT NO.1673/2, 1ST FLOOR,
2ND CROSS, 3RD STAGE,
PRAKASH NAGAR,
BENGALURU-560 021.

...RESPONDENT

(BY SRI. SRINATH G. KULKARNI, ADVOCATE)(ABSENT)

THIS CRIMINAL PETITION FILED U/S 482 CR.P.C
PRAYING TO QUASH THE COMPLAINT IN
PCR.NO.11891/2017 REGISTERED AS
C.C.NO.1220/2018 FILED BEFORE COURT OF XXII
A.C.M.M., BENGALURU AND QUASH THE ORDER DATED
08.12.2017 PASSED IN C.C.NO.1220/2018 IN SO FAR
AS TAKING COGNIZANCE AGAINST THE PETITIONER
AND QUASH THE ENTIRE PROCEEDINGS IN
C.C.NO.1220/2018 PENDING BEFORE XXII A.C.M.M.,

BENGALURU IN SO FAR AS PETITIONER IS CONCERNED (PRODUCED AS DOCUMENT NO.1 AND 2).

THIS CRIMINAL PETITION COMING ON FOR *ADMISSION*, THIS DAY THE COURT MADE THE FOLLOWING:

ORDER

On the ground that the petitioner - accused No.2 along with her husband and mother-in-law owed certain sum of money to the respondent - complainant and in discharge of the legally enforceable debt, a cheque was issued in favour of the respondent and the same was dishonored, a private complaint was filed by the respondent under Section 138 of Negotiable Instruments Act, 1881(hereinafter referred to as 'N.I.Act' for short) by way of PCR.No.11891/2017, which is presently registered as C.C.NO.1220/2018 on the file of 22nd Additional Chief Metropolitan Magistrate, Bengaluru. Aggrieved by the same, the petitioner, who is accused No.2 in C.C.No.1220/2018 has preferred the present petition with a prayer to

quash the proceedings in C.C.No.1220/2018 against her.

2. The case of the petitioner is that she never signed the cheque which have been dishonored and the same were only signed by her husband (accused No.1) and she cannot be prosecuted under the provisions of Section 138 of the N.I. Act.

3. In spite of being represented by an advocate, the advocate for the respondent has remained absent.

4. Heard the learned counsel for the petitioner and perused the complaint and the copies of the documents enclosed along with it.

5. It is seen from the complaint, the allegation is that all the three accused persons including the petitioner herein had borrowed hand loan from the respondent herein and in discharge of

the same, accused No.1, who is the husband of the petitioner herein issued four cheques, which have been dishonored and accordingly, proceedings under Section 138 of the N.I. Act have been initiated against the petitioner and two other accused. However, it is seen that accused is not a signatory to the cheque and it is specifically averred that it is not a joint account also. In the complaint also, it is specifically stated by the complainant that accused No.1, who is the husband of the petitioner has issued the cheque. The three accused in C.C.No.1220/2018 do not constitute a Company or a firm or Association of individuals as contemplated under Section 141 of N.I. Act. Hence, under the circumstances, petitioner cannot be made accused for dishonor of the cheque issued by her husband and he alone can be prosecuted for the same.

6. For the aforementioned reasons, I pass the following:

ORDER

- i. The criminal petition is allowed.

- ii. Proceedings in C.C.No.1220/2018 dated 08.12.2017 on the file of 22nd Additional Chief Metropolitan Magistrate, Bengaluru, in so far as it relates to the petitioner herein is concerned is quashed.

**Sd/-
JUDGE**

AG