

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

Criminal Petition No.6143 of 2013

ORDER:

This Petition has been filed by the accused in C.C.No.494 of 2009 seeking quashing of the order passed by the XVIII Additional Chief Metropolitan Magistrate, Hyderabad in Crl.M.P.No.586 of 2013, moved by him in the aforementioned case.

The petitioner herein filed the said Crl.M.P.No.586 of 2013 to summon the Head Constable Sri Venkatachela Murthy (H.C.No.2982) of Bangalore Police for eliciting from him as to the address at which the summons have been delivered to the petitioner in the criminal case in C.C.No.494 of 2009. The 2nd respondent Company is the *de facto*-complainant, which filed the complaint for the alleged offence said to have been committed by the petitioner herein under Section 138 of the Negotiable Instruments Act.

Sri Vijay, learned counsel for the petitioner, would submit that the address, which is found in the criminal case insofar as the petitioner is concerned, is not the one where the petitioner is staying. The notice sent by registered post said to have been delivered by the *de facto*-complainant requiring him to clear the debt due as the instrument has bounced, has not been delivered to him at all. But, the complainant, according to the learned counsel for the petitioner, showed as if the said notice sent by registered post has been delivered. The complaint is now trying to demonstrate that the address of the petitioner – accused is the same, whereas the address at which the summons have been served on the petitioner is a different one and hence, by summoning the Head Constable, the truth in this regard can be established.

The learned Chief Metropolitan Magistrate has pointed out in the impugned order passed by him on 14-06-2013 that for the purpose of eliciting the address at which the summons were served on the accused is not relevant to the charge laid against him and hence, dismissed the petition.

The learned counsel for the petitioner would strenuously urge that the summons have been delivered through the process of the Court and hence, the Head Constable, who delivered the summons to the petitioner at Bangalore, would

clearly vouch safe the fact that the summons were delivered at a particular address where the petitioner was found residing. If the said address is found to be different from that of the one to which the registered notice is said to have been issued by the complainant, the petitioner will easily be able to establish his defense before the criminal Court.

I am not impressed in any manner by this argument. For the purpose of drawing an adverse inference against the *de facto*-complainant that the address to which the notice by registered post has been sent up is not the correct one or is not the one where the accused is residing at the relevant point of time, the Head Constable, who tendered the summons in the criminal case, need not be summoned. There can be many reasons; one being; by the time the summons came to be delivered to the petitioner, he might have been staying at a different place than the one at which the registered notice has been sent up initially.

I, therefore, do not find any justifiable reason to entertain this criminal petition and accordingly, the same is dismissed.

NOOTY RAMAMOHANA RAO, J.

mrk

11.06.2015.