

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Petition No.5787 of 2011

ORDER:-

This petition is filed under Section 482 Cr.P.C., to quash the proceedings in C.C.No.1642 OF 2010 on the file of the IX-Additional Metropolitan Magistrate, Cyberabad at Kukatpally, filed under Section 200 Cr.P.C., alleging offence punishable under Section 138 of the Negotiable Instruments Act (for short 'the Act'). The petitioner herein is the 3rd respondent/accused No.3 in the said Calendar Case. The 2nd respondent herein is the complainant. The complaint is filed against three respondents/accused.

2. The case of the complainant is that the accused are doing business operations in the name and style of "Prasad Civil Works", which is owned by the non-petitioner/A.1. From 8-11-2007 onwards the accused are purchasing building material i.e., cement and steel from the complainant. For the supplies made by the complainant, the accused towards their liability issued a cheque bearing No.239238, dated 09-02-2010 drawn on HDFC Bank, Pet Basheerabad Branch, Hyderabad for Rs.18,00,000/-. When the complainant presented the said cheque in the bank, the same was dishonoured, and even after statutory notice, no payments were made. Hence, the complaint.

3. The case was taken cognizance by the learned Magistrate and summons was issued to the respondents including the petitioner/A.3.

4. The present case is filed by A.3 contending that the petitioner is no way concerned with the business of the other accused and the cheque in question is issued by A.1 in his individual capacity and that the petitioner is not a party to the said cheque. It is also submitted that there is no whisper in the complaint as to the involvement of the petitioner in the case and therefore the proceedings insofar as the petitioner/A.3 is concerned are liable to be quashed.

5. Learned Counsel appearing for the 2nd respondent/complainant submits that he has no objection if the Criminal Petition is allowed insofar

as this petitioner (A.3) is concerned.

6. Learned Counsel appearing for the 2nd respondent/complainant filed a memo, dated 24-09-2014, with the following prayer:-

“It is prayed that this Hon’ble Court may be pleased to allow the above Criminal Petition herein without costs or in the alternative permit the respondent herein to take steps to withdraw the complainant against petitioner herein before the trial Court. It is also prayed that this Hon’ble Court may be pleased to direct the lower Court not to consider the orders passed in this Criminal Petition while disposing of the case as against other accused.”

7. In view of the above, continuation of further proceedings against petitioner/A.3 amount to abuse of process of Court and therefore the same is liable to be quashed.

8. In the result, Criminal Petition is allowed quashing the proceedings in C.C.No.1642 OF 2010 on the file of the IX-Additional Metropolitan Magistrate, Cyberabad at Kukatpally, insofar as the petitioner/A.3 is concerned.

Miscellaneous petitions, if any, pending in this Criminal Revision Case shall stand closed.

M.S.K.Jaiswal, J

9th July, 2015

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