

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

CRL.P.No.1528 of 2011

ORDER:

This Criminal Petition is filed by the Petitioners-A1 and A-2 seeking to quash the proceedings initiated against them in Crime No.237 of 2010 on the file of Mydukur Police Station, Kadapa District, registered for the offence punishable under Section 420 I.P.C.

Heard the learned Counsel appearing for the petitioners and the learned Public Prosecutor, representing the State.

A private complaint was filed by the 2nd respondent herein against the petitioners-accused under Sections 406, 417 and 420 I.P.C. before the Judicial Magistrate of First Class, Mydukur and it was referred to the police under Section 156 (3) Cr.P.C. for investigation and report. Thereafter, the Station House Officer, Mydukur, registered the complaint as a case in Crime No.237 of 2010 under Section 420 I.P.C. and took up investigation.

It is alleged in the complaint that the petitioners-accused are doing business in Exports and Imports of Onion. A-1 is the Managing Director of the company and A-2 is the Director of the company. The 2nd respondent-complainant used to supply Onions to the petitioners-accused during the years 2003, 2005 and 2006 and in that connection a sum of Rs.12,00,000/- fell due to the complainant. It is further alleged that the accused issued two

post dated cheques in 2003 for a sum of Rs.4,00,000/-; three cheques in 2005 for a sum of Rs.6,00,000/- and one cheque in 2006 for a sum of Rs.2,00,000/- towards payment of the amount for the stocks supplied by the complainant.

From a perusal of the complaint, it reveals that the three cheques said to have been issued by the accused in 2003 and 2005 have not been presented with the bank for realization. However, the three cheques said to have been issued by the accused in 2005 and 2006 were presented for realization and the same were dishonoured. Thereafter, the 2nd respondent-complainant has not initiated any proceedings under Section 138 of the Negotiable Instruments Act against the accused. It is also noticed from the complaint that though the petitioners-accused alleged to have fell due in a sum of Rs.4,00,000/- as long back as in the year 2003, the 2nd respondent-complainant has continued his business transactions with the petitioners-accused in the subsequent years also without demanding the said amount. Further, a plain reading of the complaint would establish that the supply of goods and the non making of payment for the goods supplied by the 2nd respondent constitute only a civil liability and no criminal action could be initiated against the petitioners-accused.

In view of the aforementioned reasons, I am of the considered view that continuance of proceedings initiated against the petitioners-accused are nothing but an abuse of process of law and are liable to be quashed.

Accordingly, the Criminal Petition is allowed and the proceedings initiated against the petitioners-A1 and A2 in Crime No.237 of 2010 on the file of Mydukur Police Station, Kadapa District are hereby quashed.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

17-07-2015

Gsn