

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.11754 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioners/A.3 and A.4 seeks to quash the proceedings against them in C.C.No.348 of 2013 on the file of Special Magistrate Court No.1, Kukatpally, Cyberabad.

2) The factual matrix of the case is thus:

a) The complainant filed the case under Sec.138 of N.I. Act against A.1 to A.4 with the allegations that the complainant is engaged in the business of importing and exporting bulk drugs and A.1 is a Drugs and Chemicals Limited Company and A.2 is its Managing Director and A.3 and A.4 are the Directors and on their order, complainant supplied bulk drugs raw material from time to time to a tune of Rs.52,74,393/- and in discharge of their legally enforceable debt, the accused have issued five cheques to him to the complainant and on presentation they were bounced with the endorsement sufficient funds. He issued statutory notice but the accused gave reply with untenable grounds.

Hence the complaint.

3) Learned counsel for petitioners/A.3 and A.4 would submit that A.2 is the Managing Director of A.1 company and he was incharge of and responsible for the conduct of the business which was clearly stated by the complainant in his evidence and A.3 and A.4 are only directors and they are engaged in other activities of the A.1 company and therefore, under law petitioners/A.3 and A.4 are not responsible for discharge of the cheque amount and hence they cannot be prosecuted in the criminal case. He would further submit that the original C.C.No.348 of 2013 was split up against A.1 and A.2 and numbered as C.C.No.51 of 2014 and the trial was conducted in that case and the case ended in conviction against A.1 and A.2 as per the judgment dated 14.07.2014. However, the case against A.3 and

A.4 in C.C.No.348 of 2013 is still continuing which is nothing but abuse of process of law. He therefore, prayed to quash the proceedings in C.C.No.348 of 2013.

4) On perusal of the record shows that the original C.C.No.348 of 2013 was split up against A.1 and A.2 and numbered as C.C.No.51 of 2014 and after trial, learned Special Magistrate Court No.1, Kukatpally, Cyberabad convicted A.1 and A.2 for the offence under Sec.138 of N.I. Act in his judgment dated 14.07.2014. In his evidence in that case, the complainant stated as if A.2 is the Managing Director of A.1 Company and he is actively involved in the day-to-day business affairs of A.1. In the cross-examination he admitted that A.1 and A.2 are only liable for punishment for issuing Exs.P.5, P.7, P.9, P.11 and P.13—cheques. Thus from the record, it is clear that A.1 and A.2 alone were liable for the cheques issued to the complainant and not the petitioners/A.3 and A.4. Hence the continuation of proceedings against petitioners/A.3 and A.4 in C.C.No.348 of 2013 on the file of Special Magistrate Court No.1, Kukatpally, Cyberabad is nothing but abuse of process of law and hence liable to be quashed.

5) In the result, this Criminal Petition is allowed and the proceedings against petitioners/A.3 and A.4 in C.C.No.348 of 2013 on the file of Special Magistrate Court No.1, Kukatpally, Cyberabad are hereby quashed.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 09.04.2015

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