

HON'BLE SRI JUSTICE A.V.SESHA SAI
WRIT PETITION No.1051 of 2009

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking a Writ of Prohibition to prohibit the second respondent from taking any further proceedings pursuant to or in furtherance in C.C.No.34/2008 on the file of the Hon'ble Additional Junior Civil Judge, Rayachoty, Kadapa District filed by the first respondent.

2. Heard the learned counsel for the petitioner, the learned Government Pleader for Home for the second respondent State and the learned counsel for unofficial first respondent.

3. Alleging that the petitioner issued a cheque dated 14.11.2007 drawn on UCO Bank, Secunderabad Branch, and when the same was presented on 13.04.2008 in Syndicate Bank, Rayachoty it was dishonoured, the first respondent initiated criminal prosecution against the petitioner vide C.C.No.34/2008, on the file of the Additional Junior Civil Judge, Rayachoty, Kadapa District.

4. Contenting that initiation of the said proceedings is hit by Section 68 of the Negotiable Instruments Act, 1881, the present writ petition came to be filed.

5. This Court, while ordering *Rule Nisi* on 28.01.2009 in WPMP.No.1336/2009, granted order of *Status quo*.

6. Today, when the matter is called, it is submitted by the learned counsel for the petitioner that the issue in the present writ petition is squarely covered by the Judgment of the Hon'ble Apex Court in the case of ***DASHRATH RUPSINGH RATHOD v. STATE OF MAHARASHTRA AND ANOTHER***^[1] and a copy of the said Judgment is placed on record wherein the Hon'ble Apex Court at paragraph 58.7

held as follows:

“58.7. The general rule stipulated under Section 177 CrPC applies to cases under Section 138 of the Negotiable Instruments Act. Prosecution in such cases can, therefore, be launched against the drawer of the cheque only before the court within whose jurisdiction the dishonor takes place except in situations where the offence of dishonour of the cheque punishable under Section 138 is committed along with other offences in a single transaction within the meaning of Section 220 (1) read with Section 184 of the Code of Criminal Procedure or is covered by the provisions of Section 182 (1) read with Sections 184 and 220 thereof.”

7. While referring to the above said principle laid down by the Hon’ble Apex Court, it is contended by the learned counsel for the petitioner that the Hon’ble Additional Junior Civil Judge, Rayachoty, Kadapa District cannot proceed further with the adjudication of the matter. The said contention is not disputed by the learned counsel for the unofficial respondent as well as the learned Government Pleader for Home.

8. In the circumstances, this Writ Petition is disposed of, directing the Additional Junior Civil Judge, Rayachoty, Kadapa District to take note of the above decision, and if it lacks jurisdiction, the complaint may be returned to the complainant for presentation before the proper Court. Otherwise, the trial can be taken up and proceeded in accordance with law. The miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

A.V.SESHA SAI, J

Date:19.01.2015

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HON’BLE SRI JUSTICE A.V.SESHA SAI

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Between:

Smt. Thodupunoori Kadambari,
W/o Ashok Goud, aged 52 years,
R/o D.No.2-2-11 & 12, Pawan Bazar,
Secunderabad.

... Petitioner

and

Sri Gaddam Ravi Kumar,
S/o Late Raghunandham, aged about 45 years,
Occ: Advocate, R/o Kothapeta,
Rayachoty Town, Kadapa District and another.

... Respondents

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[\[1\]](#) (2014) 9 SCC 129