

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

CRIMINAL REVISION CASE No. 231 of 2013

JUDGMENT:

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The present criminal revision case is filed by the petitioners/accused under Sections 397 & 401 Cr.P.C. against the order dated 30.01.2013 passed in CrI.M.P.No.2234 of 2012 in C.C.No.638 of 2012 on the file of the VIII Special Magistrate, Hyderabad.

The facts in issue are as under:

The 2nd respondent herein filed a private complaint against the petitioners/accused for an offence punishable under Section 138 of the Negotiable Instruments Act (for short 'the Act') alleging that the petitioners issued a cheque for Rs.30,00,000/- drawn on Union Bank of India, Srinivasan Complex Branch, Tirupathi, towards legally enforceable debt and when he presented the cheque in his bank i.e., Padmavathi Co-operative Bank, Subhash Road, Secunderabad, the same was returned with an endorsement "insufficient Funds". After recording the sworn statement of the 2nd respondent, the complaint was taken on file as C.C.No.955 of 2011 on the file of the XI Additional Chief Metropolitan Magistrate, Secunderabad. Subsequently, in pursuance of constitution of Special Courts at Hyderabad, the said case was transferred to the Court of the VIII Special Magistrate, Hyderabad, and re-numbered as C.C.No.638 of 2012. During pendency of the case, the petitioners filed CrI.M.P.No.2234 of 2012 under Section 177 Cr.P.C. seeking dismissal of the complaint on the ground that the Court below has no territorial jurisdiction to entertain the complaint, as no cause of action arose within its jurisdiction. The 2nd respondent filed a counter denying the allegations made in the petition and contending that the complaint can be lodged in either of the Courts where cause of action arose, and that in the present case, the cause of action arose at Secunderabad where the cheque was presented and returned and, therefore, the case was taken cognizance. After perusing the material on record and hearing both the parties, the trial Court dismissed the said petition by an order dated 30.01.2013.

Aggrieved by the same, the petitioners preferred the present revision.

Heard the learned counsel for the petitioners and the learned counsel for the 2nd respondent.

The challenge in the revision is about the jurisdiction of the learned Magistrate in taking cognizance of the complaint filed under Section 138 of the Act. In view of the legal position that is laid down by the Apex Court and also the consequential amendments brought into the Act, it cannot be said that the Court below, which took cognizance, has no jurisdiction. In that view of the matter, the revision is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed. Consequently, interim stay granted on 07.02.2013 is vacated and the miscellaneous petitions if any pending in the revision shall stand dismissed.

M.S.K.JAISWAL,J

5th November, 2015

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