**HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**

**CRIMINAL PETITION Nos.6270, 6271, 6272 and 6274 of 2015**

**COMMON ORDER :**

These Criminal Petitions are filed by the Petitioner/ accused No.3 under Section 482 Cr.P.C seeking to quash the proceedings in C.C. Nos.131 of 2014, 132 of 2014, 341 of 2014, 349 of 2014 on the file of I Special Magistrate, Hyderabad where the learned Magistrate has taken cognizance for the offence punishable under Section 138 r/w 141 and 142 of Negotiable Instruments Act, which is outcome of private complaint of 2$^{nd}$ respondent—complainant.

2) Heard learned counsel for the petitioner/ accused No.3 as well as 2$^{nd}$ respondent—State represented by learned Public Prosecutor and 2$^{nd}$ respondent—complainant entity. Perused the material on record.

3) The averments in the three private complaints supra maintained by the complainant—M/s.Bhagyanagar Cholrides Pvt. Limited against the three accused viz., 1) M/s.ANU's Laboratories Ltd., rep. by its Managing Director, 2) Sri K.Haribabu, Managing Director of Laboratories and 3) Smt.K.Padmaja Rani, Director of M/s.ANU'S Laboratories, in nutshell are that the complainant company supplied Alluminium Choloride Amhydrous material as per the orders placed by the A-1 entity, for which A-1 entity fallen due to Rs.44,461,686/- to the complainant entity and for the same A-1 entity issued

a) two cheques i.e., bearing No.065581 dated 21.01.2015 for Rs.5,00,000/- and another cheque bearing No.065582 dated 04.02.2013 for Rs.5,00,000/- in C.C. No.131 of 2014.

b) two cheques i.e., bearing No.065578, dated 10.12.2012 for Rs.5,00,000/- and another cheque bearing No.065579, dated 24.12.2012 for Rs.5,00,000/- in C.C. No.132 of 2014.

c) two cheques i.e., bearing No.065583 dated 18.02.2013 for Rs.5,00,000/- and another cheque bearing No.065584 dated 04.03.2013 for Rs.5,00,000/- in C.C. No.341 of 2014.

d) two cheques i.e., bearing Nos.065586, dated 01.04.2013 for Rs.5,00,000/- and another cheque bearing No.065587, dated 15.04.2013 for an amount of Rs.2,57,649/- in C.C No.349 of 2014.

4) The alleged said cheques were drawn on ICICI Bank, Khairatabad Branch, Hyderabad towards part payment of the amounts due to the complainant entity and when complainant presented the same, the cheques were returned dishonoured due to 'payment stopped by drawer', that despite demands and statutory legal notices accused having received failed to pay and thereby, they are liable for the offence.

5) The averments in the three quash petitions filed by the petitioner/ accused No.3 are that A-1 is the company represented by A-2 its Managing Director that issued the cheques as drawer and the petitioner/ A-3 but for wife of A-2 she is neither director of the complainant at any point of time nor involved or responsible for the conduct of the business of A-1 entity by A-2 and it is not averred in the complaint as to how and why she is being made liable for the so-called said cheques said to have been issued by A-1 entity represented by its Managing Director and there is no proof even filed to say she is director of A-1 entity and thereby, there is no vicarious liability to liable and the proceedings are liable to be quashed.

6) The counter filed by the complainant in opposing the quash petition is with the contentions that the petitioner/A-3 is director of A-1 entity and A-1 entity fallen due the amounts and issued the cheques in question that were returned dishonoured and it was not paid despite notices. It is the contention of the learned counsel for the petitioners that petitioner/A-3 is one of the signatories of these cheques as director of A-1 entity along with its Managing Director-A2 and petitioner/A-3 filed petition under Section 258 Cr.P.C to stop the calendar case proceedings supra, that were taken cognizance and the learned Magistrate after hearing dismissed the same. After dismissal of the said applications, the cases were taken for trial and it is coming for cross examination of PW.1 from April, 2015 and subsequently in the absence of Accused No.2 NBWs were issued, PW.1 cross examination was closed and posted the matters

for Section 313 Cr.P.C examination and it is while so the applications are field to quash the proceedings by not disclosing the factum of went unsuccessful in the application filed under Section 258 Cr.P.C and thereby, the petitions are liable to be dismissed.

7) Now the point that arise for consideration is that

Whether the petitioner/A-3 is liable for the offence under Section 138 N.I Act?

Point:

8) Now it is the contention of the petitioner/ A-3 that she is not shown even as director of A-1 entity. In fact, it is averred that she is one of the directors and one of the drawers of the cheque issued on behalf of A-1 entity by the petitioner/A-3 as well as her husband—A-2, Managing Director of A.1 entity. In support of it, that the counter foil of the cheques filed by the complainant showing the petitioner/ A-3 also one of the drawers of the cheque being co-executant with A-2 or authorized signatory on behalf of A-1 entity. When even from the quash petition averments, it appears that she is mere signatory. Once she is drawer of the cheque as held by the Apex Court in ***M/s.Aparna Ashah v.Sheeth vs Sheeth Developers***[1] she cannot escape from the liability within the purview of Section 138 N.I Act irrespective of she is mere director otherwise or not even a director of A-1 entity from the factum of co-drawer of the cheque along with A-2 on behalf of A-1 entity to make them liable thereby there are no grounds for this Court to quash the proceedings.

9) Accordingly, the Criminal Petitions are dismissed.

10) Miscellaneous petitions, if any pending in the Criminal Petitions, shall stand closed.

**Dr. B. SIVA SANKARA RAO, J**

**Dt.02.11.2015**
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## HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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**CRIMINAL PETITION Nos.6270, 3271, 6272 and 6274 of 2015**

Date:02.11.2015

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[1] 2013 CrlJ 3743.