

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.3543 of 2016

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed by the petitioner – A2, under Section 482 Cr.P.C., seeking to quash the proceedings in CC.No.1212 of 2015 on the file of the VII Metropolitan Magistrate, Cyberabad, Hayathnagar, Ranga Reddy District.

Heard and perused the material available on record.

The 3rd respondent - de facto complainant filed the present complaint against the petitioner and A1 (father of the petitioner) before the Court below for the offence punishable under Section 138 of the Negotiable Instrument Act, alleging that the petitioner and A1 entered into an oral agreement with the de facto complainant to purchase the house of the de facto complainant for a consideration of Rs.9,00,000/- and A1 issued a cheque for Rs.5,00,000/- as advance. On the instructions A1, the de facto complainant presented the said cheque in the bank and the same was dishonoured.

Learned counsel for the petitioner submitted that the alleged cheque was signed and issued by A1 for an amount of Rs.5,00,000/- for the account, which stands in his name, and that the petitioner is not the signatory of the cheque, that there is no liability moreover legally enforceable debt between the petitioner and the de facto complainant and therefore, continuation of proceedings against the petitioner are nothing but abuse of process of law.

The de facto complainant also stated in the complaint that A1, father of the petitioner, signed the cheque for the account stands in his name, and A1 only issued the cheque, which clearly shows that the petitioner has no knowledge about issuance of cheque to the de facto complainant and he is also not the signatory of the said cheque. Considering the facts and circumstances of the case and also taking

into consideration the submissions of the learned counsel for the petitioner, this Court is of the view that continuation of proceedings against the petitioner for the offence punishable under Section 138 of the NI Act in the above case amounts to abuse of process of law and the same are liable to be quashed.

Accordingly, the Criminal Petition is allowed and the proceedings against the petitioner – A2 in CC.No.1212 of 2015 on the file of the VII Metropolitan Magistrate, Cyberabad, Hayathnagar, Ranga Reddy District, are quashed. Miscellaneous petitions filed in this Criminal Petition, if any, shall stand closed.

RAJA ELANGO, J

March 16, 2016.
KTL