

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO
CRIMINAL PETITION No. 933 of 2013

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ORDER:

This petition is filed under Section 482 Cr.P.C. by the petitioners/Accused Nos.2 and 3 for quashment of proceedings in C.C.No.139 of 2012 on the file of the Judicial Magistrate of First Class, Nandyal.

2. The respondent-complainant filed the said C.C., under Sections 138 and 142 of the Negotiable Instruments Act, (for short, 'the NI Act') against Accused Nos.1 to 3 with the allegations that in the matter of an Agreement to Sale dated 29.11.2010, Accused No.1 in consultation with Accused Nos.2 and 3 issued two post-dated cheques bearing Nos.573842 and 573848 dated 10.03.2011 for Rs.7,50,000/- each (Total Rs.15,00,000/-) in favour of the complainant drawn on State Bank of India, Nandyal and on the very same day i.e. on 15.02.2011 got a regular registered sale deed from the complainant in the name of Mukkamalla Veerendra Simhadri Reddy who is the benamidar of Accused Nos.1 to 3. It is further alleged that A1 to A3 promised the complainant that the cheque issued by Accused No.1 will be honoured when presented for realisation in State Bank of India, Nandyal. According to the complainant, the complainant presented the cheques for collection on 10.03.2011 through State Bank of India, Noonepalli Branch and the cheques were

dishonoured on 14.03.2011 with an endorsement "Payment stopped by the drawer". After following due process, the complainant filed the C.C. against A1 to A3 as the cheques were issued for due discharge of legal obligation and the said cheques were subsequently bounced back.

3. Now the instant petition is filed by petitioners/A2 and A3 for quashment of C.C. Their submission is that they are innocent and that they have not committed any offences and both the cheques were issued by Accused No.1 alone and the petitioners are not concerned with the said cheques and therefore they are not liable for criminal prosecution. They have taken other pleas also which are not much important at this stage.

4. Learned counsel for the respondent-complainant opposed the petition on the submission that after due consultation with the petitioners, A1 issued the two cheques and now the petitioners cannot plead that they did not know about the cheques. He thus prayed to dismiss the application of the petitioners.

5. On scrutiny of the C.C., and other material produced, the main contention of the petitioners is that the cheques were issued by A1 alone and the petitioners had nothing to do with the said cheques and hence no criminality can be attached to them. The reply notice

dated 09.03.2011 got issued by A1 to A3 would show that A1 issued the two cheques to the complainant. In his reply notice, it is not specifically mentioned that the petitioners had no knowledge or they have not given their consent for issuing the cheques to the complainant. So whether A1 issued the cheques to the complainant with the knowledge and with the consent of A2 and A3 or whether A1 issued the cheques independently by himself has to be decided only after full fledged trial and not in this quashment petition.

6. Therefore, this criminal petition is dismissed with liberty to the petitioners to take all the relevant pleas legally permissible to them and the trial Court shall, after trial, decide the case on merits. The presence of the petitioners/A2 and A3 is dispensed with before the trial Court, except on the occasions when the trial Court requires their presence.

U. DURGA PRASAD RAO, J

29th February, 2016

Note: Issue C.C. today.

B/o

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