

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.5959 OF 2016

ORDER:

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This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 by the petitioners/A-2 and A-3 seeking to quash the proceedings in C.C.No.238 of 2015 on the file of the V Special Magistrate, Ranga Reddy District at Hastinapuram, Hyderabad.

2. Heard and perused the material available on record.
3. The offence alleged against the petitioners is punishable under Section 138 of the Negotiable Instruments Act, 1881.
4. Learned counsel for the petitioners/A-2 and A-3 mainly contended that the petitioners are not the signatories to the cheques in question and the same were issued by one Garikapati Radha Krishna, who is arrayed as A-1, in his individual capacity and hence, he prays to quash the proceedings against the petitioners in the aforementioned case.
5. Admittedly, in the complaint filed by the complainant, it is stated at para No.2 as follows:

"That the complainant has requested the accused over phone vide Phone No.7702193805, 7702719006 and 9246957888 to pay the amounts due as per the supplies made by him and he personally approached the accused at his business premises asking them to pay the amount dues. But the accused has always shown one or the other reason/difficulties in paying the amounts. Finally on 26-03-2015 accused No.1 has issued two cheques in his own capacity one is for an amount of Rs.50,000/- vide Cheque bearing No.146579 dt.26.03.2015 and another cheque for an amount of Rs.1,40,000/- vide cheque bearing No.146580 dt.20.04.2015 and also requested the complainant to wait for sometime in presenting the cheques and accused was also assured that he is ready to pay the above cheque amounts within one month period after the issuance of the above cheques. He was also assured that the remaining balance of Rs.86,088/- (corrected amount as wrongly mentioned in the notice) is

also clearing within 2 months from the above date. Accordingly complainant has waited for more than 2 months and again he requested the accused over phone to clear the dues and also met him personally on number of occasions and requested him to clear the payments. It was in vain that he never turned up to clear the payments showing the financial reasons."

It is evident from the said recital in the complaint that the cheques in question were issued by A-1 in his individual capacity and not by the petitioners herein. Hence, this Court is of the view that pendency of the case against the petitioners amounts to abuse of process of law and hence, it is a fit case to quash the proceedings against the petitioners.

6. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioners/A-2 and A-3 in C.C.No.238 of 2015 on the file of the V Special Magistrate, Ranga Reddy District at Hastinapuram, Hyderabad. Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

JUSTICE RAJA ELANGO

22.4.2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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