THE HONOURABLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.12017 of 2015

ORDER:

This Criminal Petition is filed by A.2 under Section 482 of Criminal Procedure Code seeking to quash the proceedings in C.C.No.354 of 2014 pending on the file of III Additional Judicial First Class Magistrate, Khammam for the offence under Section 138 of Negotiable Instruments Act.

The only ground raised by the learned counsel for the petitioner is that merely because the account on which the cheque in question issued by A.1, who is the husband of the petitioner herein stands in joint account, the petitioner herein was made as accused No.2 though she is not a signatory to the cheque. Therefore, even if the allegations in the complaint are taken to be true, no offence much less the offence alleged in the complaint is made out against the petitioner herein.

The Apex Court as well as various High Courts in catena of decisions categorically held that a complaint under Sction 138 of Negotiable Instruments Act would be maintainable against a 'drawer' of the cheque and that a person not being a signatory to the cheque cannot be prosecuted merely because she is a joint account holder. Admittedly, in the case on hand, the petitioner is not a signatory to the cheque but she is only a joint account holder along with A.1. Hence, the impugned proceedings are liable to be quashed as against the petitioner herein.

In the result, the Criminal Petition is allowed and the proceedings in C.C.No.354 of 2014 pending on the file of III Additional Judicial First Class Magistrate, Khammam are hereby quashed as against the petitioner herein.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

11th April, 2016
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