

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.7682 of 2012

ORDER:

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This Criminal Petition under Section 482 of Cr.P.C. is filed A.2 to quash the proceedings in C.C.No.54 of 2012 pending on the file of III Special Metropolitan Magistrate, Cyberabad at Kukatpally for the offence under Section 138 r/w 142 of Negotiable Instruments Act.

It is the case of the first respondent-complainant that the A.1 is the husband of A.2 and that they availed housing finance of Rs.28.00 lakhs from it to purchase a flat and A.1 issued a cheque bearing No.572223, dated 3.8.2009 for an amount of Rs.75,256/- drawn on Andhra Bank towards payment of E.M.I. However, the said cheque was dishonoured for want of funds. After issuing the statutory notice dated 22.8.2009, the present complaint was lodged against A.1 and A.2.

The main ground on which the learned counsel for the petitioner seeks to quash the impugned proceedings as against the petitioner-A.2 is that the petitioner is neither a signatory to the cheque nor the borrower and merely because she is the wife of signatory (A.1), she has been arrayed as A.2 and therefore, the impugned proceedings are nothing but abuse of process of law.

Heard and perused the material available on record.

A copy of the cheque in question is made available before this Court. Admittedly, A.1 is the signatory to the said cheque. Further as seen from the legal notice dated 22.8.2009 issued on behalf of first respondent-complainant, as para No.2, it is specifically stated as under:

“2. That you party No.1 issued cheque bearing No.572223, dt.03-08-2009, for an amount of Rs.75,256/- (Rupees Seventy Five Thousand Two Hundred and Fifty Six Only), drawn at Andhra Bank, branch at BDL Campus, Kanchanbagh, Hyderabad, AP-500 058, towards payment of EMI's.”

As seen from the above notice, it is clear that even as per the complainant the petitioner herein is not a signatory to the instrument and therefore, there is no legally enforceable debt as against the petitioner-A.2 herein. 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.54 of 2012 pending on the file of III Special Metropolitan Magistrate, Cyberabad at Kukatpally are hereby quashed as against the petitioner herein.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

02nd August, 2016
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