

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL REVISION CASE No.254 of 2006

ORDER:

The present Criminal Revision Case arises out of an interlocutory order, dated 08.12.2005, in CrI.M.P.No.808 of 2004 in C.C.No.79 of 2003 on the file of the Judicial First Class Magistrate for Excise, Guntur, whereby and whereunder, the petition filed by accused No.6 to discharge her of the offence punishable under Section 138 of the Negotiable Instruments Act, was dismissed rejecting her request. Aggrieved over the same, the present revision case is filed by accused No.6.

There is no representation for the revision petitioner. In fact, the present revision has been coming up for hearing since 2006. The order under challenge was, in fact, passed in December, 2005. The only ground agitated in the present revision is that the revision petitioner did not sign the cheque, dated 09.11.2002, and there is no allegation in the private complaint that the revision petitioner is in-charge of the day-to-day affairs of the firm.

The learned Magistrate dismissed the petition holding that since the case is tried as a summons case, discharge of the accused in a trial of summons case is not contemplated in view of the decision of the Honourable Apex Court in **Subramaniam Sethuraman v. State of Maharashtra and another**¹.

¹ 2005 (1) ALD (CrI.) 125 (SC)

In the order under challenge, the learned Magistrate referred to various authorities relied on by the learned counsel for both parties.

The question whether the revision petitioner was looking after the day-to-day affairs of the firm or not, is a matter to be gone into during trial. It is no doubt true, one of the grounds being that the revision petitioner did not issue the cheque, it is not known whether the cheque was issued on behalf of the firm. In such an event, the trial has to go on.

When the present revision case was admitted on 13.02.2006, interim stay was granted and, on account of this, certainly, the proceedings before the learned Magistrate must have been stalled totally for a period of eleven years.

Hence, vacating the stay granted on 13.02.2006, the present revision petition is dismissed. However, the learned Magistrate is directed to dispose of Calendar Case No.79 of 2003 as expeditiously as possible, preferably within six months from the date of receipt of a copy of the order.

Miscellaneous applications, if any pending in the revision case, stand closed.

JUSTICE A.SHANKAR NARAYANA

13.11.2017

v v