

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

* * * *

CRIMINAL PETITION No.6183 of 2011

Between:

A.Deepa

....Petitioner

And

The State of A.P., rep. by its Special
Public Prosecutor, High Court of A.P.,
Hyderabad and another

....Respondents

JUDGMENT PRONOUNCED ON: 13.10.2017

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : Yes
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : Yes
3. Whether His Lordship wishes to
see the fair copy of the Judgment? : No

T.AMARNATH GOUD, J

*** THE HON'BLE SRI T.AMARNATH GOUD**

+ CRIMINAL APPEAL NO.6183 OF 2011

% DATED 10TH OCTOBER, 2017

A. Deepa

.. Petitioner

Vs.

\$ State of A.P. rep. by its Special Public Prosecutor
High Court of A.P., Hyderabad and another
Respondents

..

<Gist:

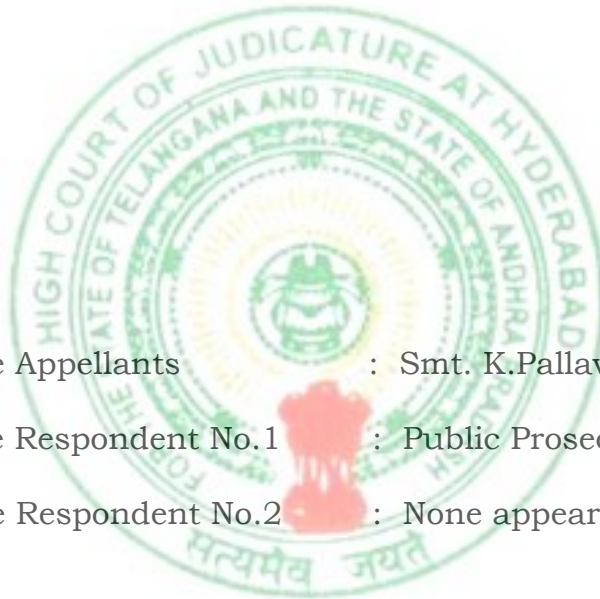
>Head Note:

! Counsel for the Appellants : Smt. K.Pallavi

^Counsel for the Respondent No.1 : Public Prosecutor

Counsel for the Respondent No.2 : None appeared

? CASES REFERRED:



THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CRIMINAL PETITION NO.6183 OF 2011

ORDER:

This Criminal Petition is filed under Section 482 of the Criminal Procedure Code to quash the proceedings in C.C. No.1709 of 2010 on the file of the IX Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur, Ranga Reddy District, registered on the private complaint filed by the second respondent for the offence punishable under Section 138 of Negotiable Instruments Act.

2. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor appearing for the respondent State.

3. The second respondent is the complainant and the petitioner before this Court is accused No.2. It is the case of the petitioner that she is not the signatory to the cheque and she has no transaction in respect of the above cheque with the second respondent. The cheque presented by the complainant was returned due to insufficient funds. The first accused who is husband of the petitioner appears to have transactions with the complainant and without the knowledge of the petitioner, cheque was issued. The cheque is said to have been issued by the husband of the petitioner to the complainant. The cheque though belongs to the account of the petitioner, the signature made is not that of the petitioner and the signature belongs to some one else.

4. The learned counsel appearing for the petitioner placed reliance on **Mrs.Aparna A.Shah Vs. M/s. Sheth Developers Pvt.Ltd., and Anr¹**, wherein it is held that in case of issuance of cheque from joint account, a joint account holder cannot be prosecuted unless the cheque has been signed by each and every person who is a joint account holder. More over, the cheque amount is not a legally enforceable debt payable by the petitioner to the 2nd respondent.

5. In the light of the above decision, cognizance cannot be taken under Section 138 of the Negotiable Instruments Acct against the petitioner, since she has not signed the cheque and has not issued the same.

6. Accordingly, the Criminal Petition is allowed and the proceedings in C.C. No.1709 of 2010 on the file of the IX Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur, Ranga Reddy District are quashed. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.AMARNATH GOUD, J

Date: 13-10-2017

Note:-

L.R.Copy to be marked.

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¹ AIR 2013 Supreme Court 3210