

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.1220 of 2005

JUDGMENT:

The complainant in C.C.No.325 of 2000 on the file of Sub Divisional Magistrate (Mobile Court) Bhadrachalam, preferred this Revision under Sections 397 and 401 Cr.P.C., questioning the propriety, legality and regularity of the Order dt.25.04.2005 in Criminal Appeal No.129 of 2000 passed by V Additional District and Sessions Judge(FTC), Khamma at Kothagudem, dismissing the complaint filed by the complainant.

The Appellant herein filed a complaint alleging that he is the proprietor of Sri Venkata Sai Agency at Bhadrachalam dealing with the trade of pesticides and the accused being the proprietor of Sri Divya Sri Enterprises at Kurnool, purchased pesticides on credit basis from time to time from him and towards discharge of the debt due, the accused/respondent issued a cheque bearing No.786065, dt.4.04.2000 for Rs.48,690/-, drawn on State Bank of Hyderabad, Burgampahad and on its presentation, the same was dishonoured with an endorsement "insufficient funds" and thereafter he issued a notice calling upon the accused to pay the amount covered by dishonoured cheque within 15 days from the date of receipt of the notice, but the accused did not pay the amount and hence, he filed a complaint before the Court.

On examination of accused under Section 251 Cr.P.C, the trial Court found the accused guilty for the offences punishable under sections 138 of NI Act r/w Section 417 and 420 IPC, as the accused admitted about his liability including issuance of cheque and the

amount, and sentenced the accused to undergo RI for a period of one year and to pay a fine of Rs.5000/- with default sentence.

Aggrieved by the conviction and sentence imposed by the trial Court, on admission, the accused preferred an appeal, but in the appeal, the appellate Court set aside the conviction and sentence imposed by the trial Court, on the ground that by the date of filing the complaint, no cause of action accrued for filing the same.

Assailing the said Order, the present Revision is filed by the appellant questioning the impugned Order on the ground that when the accused himself admitted about his guilt including issuance of cheque and non payment of the amount, the Court cannot dismiss the complaint on the ground of limitation.

As seen from the judgment of the Appellate Court, a notice dt.3.05.2000 was issued in compliance of Clause (b) of the proviso to Section 138 NI Act, on receipt of cheque return memo on the ground of insufficient funds on 28.04.2000, but the complaint was filed on 15.05.2000 even without waiting for the statutory period, though one month period is the limitation for filing the complaint under Section 142 NI Act. Thus, by the date of filing the complaint, no cause of action arise for filing the same. Therefore, dismissal of the complaint by the appellate Court on the ground that there was no cause of action is suffice to sustain the order passed by it. Therefore, I find no ground to warrant interference of this Court with the judgment of the Appellate Court while exercising power under Sections 397 and 401 Cr.P.C., which is limited in nature.

Accordingly, this Criminal Revision case is dismissed.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

Date: 24-08-2017

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CrI.R.C. No.1220 of 2005

Dt. 24-08-2017



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