

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL PETITION No.9134 of 2011

ORDER:

1. This petition is filed under Section 482 Cr.P.C., seeking to quash the proceedings against the petitioner-accused No.2 in C.C.No.210 of 2011 on the file of the X Additional Chief Metropolitan Magistrate, Secunderabad.
2. The contention of the petitioner is that she is not the drawer of the cheque and as she is the wife of A1, she was falsely implicated.
3. On the other hand, the 1st respondent did not appear in this petition. But he filed a counter-affidavit in CrI.P.No.9149 of 2011, wherein he stated that the complaint has been stayed as per the interims order of this Court and that as per the position of law, the offence under Section 138 of the Negotiable Instruments Act can be filed only against the drawer of the cheque, who is liable to be punished, and that the petitioner has obtained stay of complaint and because of the stay, the matter has not been proceeded even against accused No.1 and that the criminal petition may be allowed as the 1st respondent will not press the complaint against the petitioner as she is not the drawer of the cheque.
4. In view of the clear admission of the 1st respondent that since the petitioner is not the drawer of the cheque, the complaint against the petitioner-accused No.2 is not maintainable and that the 1st respondent will not press the complaint against the petitioner, I am of the opinion that since the petitioner is not the drawer of the cheque, the proceedings against her can be quashed.

5. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioner-accused No.2 in C.C.No.210 of 2011 on the file of the X Additional Chief Metropolitan Magistrate, Secunderabad. Consequently, miscellaneous petitions pending, if any, shall stand closed and the interim stay granted on 27.9.2011 in Crl.P.M.P.No.9954 of 2011 is vacated.

JUSTICE N. BALAYOGI

Date: 12th October, 2017
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