

THE HON'BLE SRI JUSTICE N.BALAYOGI

Criminal Petition No. 4721 of 2011

ORDER :

This is a petition filed under Section 482 of Cr.P.C. seeking to quash the complaint filed under Section 138 of Negotiable Instruments Act in C.C.No.1261 of 2010 on the file of the Court of the Additional Judicial First Class Magistrate, Anantapur.

The contention of the petitioner is that on 31.12.2009 the cheque was not returned with an endorsement 'funds insufficient', so the allegation that the cheque was returned with an endorsement 'funds insufficient' is illegal. It is further contended that the complainant filed the case with corrections for the purpose of filing this complaint.

On the other hand, the learned Public Prosecutor contended that there is sufficient material to prosecute the petition.

A perusal of the complaint goes to suggest that the petitioner issued a cheque bearing No.611714 for Rs.1,50,000/- on 31.7.2009 drawn on State Bank of India, Anantapur, to the complainant and when the same was presented by the complainant, it was returned by the bank with an endorsement 'funds insufficient' (vide letter dated 31.12.2009). The complainant issued notice dated 18.1.2010 alleging that the cheque for Rs.1,50,000/- dated 31.7.2009 issued by the petitioner was presented and the same was returned with an endorsement 'funds insufficient on 31.12.2009', hence he has committed an offence under Section 420 I.P.C.

The main contention of the petitioner is that the cheque was not returned with an endorsement 'funds insufficient', it was returned with an endorsement 'invalid account number' and there is material alteration in the cheque with regard to the date.

A perusal of the letter dated 31.12.2009 issued by the bank goes to suggest that the cheque was returned with an endorsement 'invalid account number'.

Whether the cheque is materially altered or the account number was wrongly mentioned and under what circumstances the bank returned the cheque with an endorsement 'invalid account number' and as to how the 2nd respondent/complainant mentioned that the cheque was returned with an endorsement 'funds insufficient' are all material to be decided on evidence. As matter stood thus, there is *prima facie* material against the petitioner to prosecute the petition. Absolutely there is no abuse of process of law or miscarriage of justice. I do not find sufficient ground to quash the complaint filed under Section 138 of Negotiable Instruments Act in C.C.No.1261 of 2010 on the file of the Court of the Additional Judicial First Class Magistrate, Anantapur.

Accordingly, Criminal Petition is dismissed while vacating the interim stay dated 20.6.2011 granted by this Court in CrI.P.M.P. No.4790 of 2011.

JUSTICE N.BALAYOGI

20th October, 2017

skmr