

SMT JUSTICE T.RAJANI

CRIMINAL PETITION No.2325 OF 2013

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash the proceedings in C.C.No.499 of 2012 on the file VII Special Magistrate, Somajiguda, Hyderabad, registered for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, against the petitioner/A.3 and others.

2. Heard learned counsel for the petitioner. None appears for respondent No.1, in spite of service of notice.

3. Learned counsel for the petitioner submits that the subject cheque was issued by the authorized signatory, on behalf of the Panchavati Contractors & Promoters, for which, this petitioner, who is arrayed as A.3, is only a partner. He further submits that the petitioner is only a sleeping partner, whereas A.2 is the Managing Partner of the said company. Learned counsel for the petitioner also placed reliance on a decision reported in **Katta Sujatha (SMT) v. Fertilizers & Chemicals Travancore Ltd and another**¹, wherein the Apex Court held that when no particular act was specifically attributed to the partner, the maintainability of the complaint against such a partner cannot be permitted; when there is no allegation in the complaint that the said partner was in-charge and responsible to the firm, the complaint is not maintainable; so also, when there is no allegation that the offence was committed with the consent or connivance of the said partner or that the same was attributable to any neglect on his/her part in

¹ (2002) 7 Supreme Court Cases 655

the matter of issuance of the cheque, the complaint cannot be considered.

4. In the case on hand, since no specific allegation in the complaint is made against the petitioner and also since the petitioner is only a Partner and was not in-charge or responsible to the firm for the conduct of the business of the firm, this Court is of the considered opinion that the continuation of further proceedings, in this case, against the petitioner is absolutely an abuse of process of law. Hence, the Criminal Petition is liable to be dismissed.

5. Accordingly, the Criminal Petition is allowed quashing the proceedings in C.C.No.499 of 2012 on the file of VIII Special Magistrate, Somajiguda, Hyderabad, against the petitioner/A.3 only.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

T.RAJANI, J

AUGUST 20, 2018
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Date: 20.08.2018

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