

SMT JUSTICE T. RAJANI

CRIMINAL PETITION Nos.6647 of 2011 and 1586 of 2012

COMMON ORDER:

These petitions are filed seeking for quash of the proceedings against the petitioners, who are A1 and A2, in C.C.No.1577 of 2009 on the file of IX Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur (which according to the counsel for the petitioners is changed as C.C.No.2122 of 2013 on the file of XIX Additional Chief Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur). The offences alleged against the petitioners are under Sections 420, 323 and 506 IPC.

2. Heard the counsel for the petitioners and the Public Prosecutor appearing for the 1st respondent. None appears for the 2nd respondent, in spite of notice.

3. The petitioners are A1 and A2 in the above CC. The case was registered based on the private complaint, which was filed by the complainant. The averments in the complaint would show that when the complainant approached the police, the police opined that it is a matter of civil nature and asked them to approach the court of law. The allegations are that the complainant and the accused are known to each other and A1 is doing real estate business and out of the said acquaintance, A1 borrowed an amount of Rs.45 lakhs, towards development of his business. The complainant paid the said amount and A1 executed a loan agreement-cum-cash receipt, on the same day and issued two cheques as per the request. When the said

cheques were presented, they were returned on the ground that the funds are insufficient. It is on the basis of the said returned cheques that this complaint is filed, terming the act of A1 in issuing the cheques, which are dishonoured, as an act of cheating.

4. The counsel for the petitioners submits that A2 in this case does not have anything to do with the cheques that were issued by A1. However, he draws the attention of this court to a document on which both A1 and A2 signed. The document spells that cheques were issued in respect of the monetary transaction. The counsel for the petitioners further submits that a civil suit viz., O.S.No.739 of 2011 on the file of Principal Additional District Judge, Ranga Reddy, was filed by the complainant for realisation of the said amounts and the same was decreed in his favour.

5. Hence, considering the above, this court opines that it is purely a civil dispute and as the complainant has already obtained a decree in his favour for realisation of the said amount, continuation of further proceedings against the petitioners would only result in abuse of process of law.

6. With the above observations, the Criminal Petitions are allowed and the proceedings against the petitioners in C.C.No.1577 of 2009 on the file of IX Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur (which according to the counsel for the petitioner is changed as C.C.No.2122 of 2013 on

the file of XIX Additional Chief Metropolitan Magistrate, Cyberabad, Kukatpally at Miyapur), are hereby quashed.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

August 16, 2018
LMV

T. RAJANI, J

