

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Crl.P.No.13467 of 2011

ORDER

This criminal petition is filed under Section 482 Cr.P.C., seeking to quash the proceedings in C.C.No.204 of 2011 on the file of II Special Magistrate Court, Cyberabad, Malkajgiri, Ranga Reddy District, against the petitioner/accused.

2. The brief facts of the case are that the first respondent-Kapil Chit Funds Private Limited has filed a complaint under Section 200 Cr.P.C., alleging that the petitioner, A. Babu, is the chit subscriber of its company in chit series CHT02J holding ticket No.11 at Chirala Branch for the chit value of Rs.5,00,000/- payable in 50 equal monthly instalments @ Rs.10,000/- per month. An agreement of chit has been entered into between the parties. On 10.02.2007, the said subscriber has become the highest bidder in the auction and in order to withdraw the chit amount, he furnished sureties, who have also executed an agreement of guarantee. All of them have executed a demand promissory note towards future liability of the chit instalments. The subscriber has received the chit prize amount acknowledging the receipt of the said amount. As per the terms of the chit agreement, if any prized subscriber commits default consecutively for a period of more than two months, he is not entitled for any dividend apart from the penal liability. The subscriber i.e., accused, has paid only eight chit instalments and thereafter, committed default in payment of the balance chit instalments i.e., from 9th instalment onwards. In spite of repeated demands by the

complainant company, no amount has been paid by the accused. The accused has issued a cheque bearing No.837416 dated 10.10.2008 for an amount of Rs.4,42,773/- drawn on Bank of Baroda, Nellore Branch, Prakasham District, in favour of the complainant. On 10.10.2008, when the complainant presented the said cheque in Union Bank of India, A.S.Rao Nagar, Hyderabad Branch, Ranga Reddy District, for collection, it was returned with an endorsement that 'insufficient funds'. Therefore, the present complaint has been filed by the complainant.

3. Heard the arguments of learned counsel for the petitioner and the learned Public Prosecutor.

4. Though notice has been sent to the first respondent-complainant, none appeared on its behalf.

5. Learned counsel for the petitioner mainly argued that the trial Court has no jurisdiction to entertain the case at Ranga Reddy District as the entire chit transaction has taken place in Chirala. He further submitted that the cheque was issued by the petitioner at Nellore, whereas it was presented in Union Bank of India, A.S.Rao Nagar, Hyderabad Branch, Ranga Reddy District, for collection and therefore, Ranga Reddy District has no jurisdiction to entertain the complaint as the cheque was drawn on Bank of Baroda, Nellore Branch, Prakasham District, in favour of the complainant.

6. As far as the jurisdictional point is concerned, there is no force in the argument of the learned counsel for the petitioner, for the reason that the cheque issued in favour of the complainant was drawn on Bank of Baroda, Nellore Branch, Prakasham District.

There is no bar of issuing a cheque at Nellore Branch and presenting at A.S.Rao Nagar, Hyderabad.

7. Learned Public Prosecutor submits that there is no jurisdictional issue in this matter as the transaction has taken place at Chirala, the cheque was issued at Nellore, Prakasham District and it was presented by the complainant at A.S.Rao Nagar, Hyderabad, which does not affect the jurisdiction of the Court where the transaction had taken place.

8. Having regard to the facts and circumstances of the case, there are no valid grounds to quash the proceedings in this case. However, learned counsel for the petitioner requested this Court that the presence of the petitioner may be dispensed with during trial. The learned Public Prosecutor has not objected for the same.

9. In the result, the Criminal Petition is dismissed, dispensing with the presence of the petitioner before the trial Court during trial, except on the occasion when his presence is required by the trial Court.

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

GUDISEVA SHYAM PRASAD, J

9th April, 2018

sj