

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.5610 of 2013

ORDER:

This petition is filed, seeking for quash of the proceedings against the petitioners in C.C.No.201 of 2013 on the file of the Court of XI Special Magistrate, Erramanzil, Hyderabad, (previously C.C.No.722 of 2012 on the file of the Court of XI Chief Magistrate at Secunderabad). The offences alleged against the petitioners are under Section 138 of N.I.Act.

2. Heard the counsel for the petitioners and the Public Prosecutor, appearing for the 1st respondent as well as the counsel, appearing for the 2nd respondent.

3. The counsel for the petitioners submits that there is no jurisdiction to the court below to take cognizance of the case, as no cause of action arose within the jurisdiction of that court. But the counsel for the 2nd respondent submits that the jurisdiction is attracted by the place where the cheque is dishonoured by the Bank on which it was drawn. There is no dispute that the cheque was drawn on the Axis Bank, Secunderabad Branch.

4. The next contention is that the petitioners issued a reply notice to the notice issued by the complainant, asking him not to present the cheque. In the reply notice, he takes several pleas with regard to the amounts that were due to him.

5. But in the considered opinion of this court, having issued the cheque, the petitioners have taken certain pleas denying the liability under the cheque, which have to be gone into by the court below during trial. Until such time, it cannot be said that the cheque was not issued for legally enforceable debt.

6. Hence, considering the above, this court opines that this is not a fit case for quashing the proceedings against the petitioners.

7. With the above observations, the Criminal Petition is dismissed. Interim stay, granted by this court in this petition on 12.06.2013, shall stand vacated.

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

August 21, 2018
LMV

T. RAJANI, J

