SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.4106 of 2013

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking to quash the proceedings against the petitioner/Accused in C.C.No.170 of 2009 on the file of Special Judicial Magistrate of First Class (Prohibition and Excise), Visakhapatnam, registered for the offences punishable under Sections 138 and 142 of the Negotiable Instruments Act, 1881 (for short, 'the Act').

2. The brief facts of the case are that the accused approached the *de facto* complainant Bank for housing loan and borrowed an amount of Rs.2,40,000/-, for which the accused executed relevant documents and also created equitable mortgage of his property. The accused in due discharge of his outstanding amounts under two loans, has duly signed and issued a cheque bearing No.011040 on 30.09.2007 drawn on Punjab and Sindh Bank, Suryabagh Branch, Visakhapatnam, for Rs.4,50,000/-. When the said cheque was presented, it was dishonoured. Later, on receiving the notice issued by the *de facto* complainant Bank, the accused approached the *de facto* complainant Bank and asked the Bank officials not to take any action with regard to dishonour of said cheque and he issued two more cheques bearing No.011283 for Rs.75,000/- on 17.11.2007 and cheque bearing No.011284 for Rs.3,75,000/- on 30.11.2007, both cheques drawn on Punjab and Sindh Bank, Suryabagh Branch, Visakhapatnam. The *de facto* complainant deposited a cheque, dated 17.11.2007, in its account with HDFC Bank and the same was enchased. Later, when the *de facto* complainant deposited the cheque bearing No.011284 in its account at HDFC Bank, Visakhapatnam Branch for encashment,

the same was dishonoured and returned with an endorsement "Insufficient funds" and the same was communicated to the accused.

3. The contention of learned counsel for the petitioner now is that the cheques pertaining to the cheque numbers mentioned in the complaint are not filed along with the complaint. The cheque filed along with the complaint is dated 30.09.2007 bearing No.011080, which does not correspond with any of the cheque numbers mentioned in the complaint. He also draws the attention of this Court to the list of documents mentioned in the complaint, wherein document No.2 is lawyer's notice issued in respect of cheque bearing No.011280 for Rs.4,50,000/- and document No.5 is cheque bearing No.011284, drawn on Pubjan and Sindh Bank, Suryabagh Branch, Visakhapatnam.

4. Absolutely there seems to be no nexus between the cheque numbers mentioned in the compliant and the cheques filed along with the complaint. Hence, in view of the above, this Court finds that the further proceedings against this petitioner cannot be continued and need to be quashed.

5. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioner/accused in C.C.No.170 of 2009 on the file of Special Judicial Magistrate of First Class (Prohibition & Excise), Visakhapatnam.

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

T. RAJANI, J

OCTOBER 10, 2018
YVL

SMT JUSTICE T. RAJANI

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

CRIMINAL PETITION No.4106 of 2013

Date:10.10.2018