HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION No. 10229 OF 2013

O R D E R :

This Criminal Petition is filed under section 482 of Cr.P.C., seeking to quash the proceedings in C.C.No. 211 of 2012 on the file of the Court of Judicial Magistrate of First Class, Jadcherla, Mahbubnagar district by the petitioner/A-8.

2. The petitioner herein is A-8 in C.C.No. 211 of 2012. The second respondent herein has filed a complaint in C.C.No. 211 of 2012 under section 200 of Cr.P.C. read with section 138 of Negotiable Instruments Act before the Court of Judicial Magistrate of First Clas, Jadcherla, Mahbubnagar district, alleging that the second respondent is a dealer in various agricultural waste and supplies the same to various customers on credit basis. The first accused is one among such customers. A-2 to A-8 are the Directors of the Company who are in-charge of day-to-day affairs of the A-1/company.

It is alleged that the second respondent used to supply agricultural waste upon the order of accused and that the accused was in the habit of making payments by way of running account.

The second respondent alleged that on 01/4/2010 the accused were liable to pay an amount of Rs.34,19,862=00 towards the business transactions. On repeated demands, the accused have issued three post-dated cheques on various dates as shown under, drawn on Andhra Bank.

Sl. No.	Cheque Number	Date	Bank	Amount
01.	341818	31-12-2009	Andhra Bank Chikkadpally	1,00,000=00
02.	341819	31-12-2009	Andhra Bank Chikkadpally	5,00,000=00
03.	822869	12-08-2011	Andhra Bank Sultan Bazar	27,78,167=00

It is further alleged that the accused expressed his financial difficulties to the second respondent on 31/12/2009 and requested for some time for payment of amount. Thereafter, he revalidated the cheque No.341818, and the cheque No.341819. Again, he revalidated the said cheques on 12/10/2011. The second informed about presentation of the above three cheques in the month of October 2011, the accused requested to present the cheques in January, 2012 and when the second respondent insisted for presentation of cheques for 17/01/2012, the accused issued a letter dated 17/01/2012, confirming that the cheques issued by them towards the dues for the business transaction and requested orally to present the cheques on 31/01/2012.

It is further alleged that the second respondent got issued legal notice dated 23/02/2012 under the provisions of section 138 of Negotiable Instruments Act to the A-1, A-2 and A-3 and the same were served on them on 24/02/2012.

It is further alleged that the accused gave reply with false averments. The second respondent, therefore, filed the present complaint before the Court of Judicial Magistrate of First Class, Jadcherla, Mahbubnagar district.

3. The petitioner herein is A-8. It is the case of the petitioner that he has resigned from the post of Director on 05/02/2009.

4. The learned counsel for the petitioner has filed Form No. 32 to show that the petitioner herein has resigned from his post of Director on 05/02/2009. It is the case of the petitioner that three cheques have been issued subsequent to his resignation.

5. The learned counsel for the respondent submits that on perusal of Form No.32, the petitioner/A-8 has resigned from the Directorship on 05/02/2009. It is further submitted that though he has resigned from the post of Director, since no one is appointed in his place, still he is responsible for the transaction subsequent to the appointment of Director in his place. The said argument of the second respondent cannot be accepted for the reason that the petitioner being the Director has resigned on 05/02/2009 and Form No.32 clearly reveals that he has resigned on that particular date. The allegations referred to above clearly reveals that the transaction of issuance of cheques were much prior to his resignation, since the petitioner has resigned from the company.

6. The learned counsel for the petitioner submits that the resignation of the petitioner from the post of Director has been forwarded to the Board of Directors. It is further submitted that the Joint Registrar of Companies, Andhra Pradesh, Hyderabad, issued a certified copy under the provision of 1 [d] section 610 of the Companies Act, 1956, dated 01/08/2013 accepting the resignation of the petitioner as 'Director' from the said Company.

7. In the light of the arguments advanced by the learned counsel for the petitioner and respondent, it is obvious that the petitioner was the Director of the Company and he was arrayed as A-8 in C.C.No. 211 of 2012.

It is also pertinent to note that he has resigned from his Directorship on 05/02/2009. The alleged issuance of three cheques of the Company are subsequent to his resignation. Form No. 32 clearly reveals that the first resignation was accepted by the Registrar of Companies. Therefore, there are no grounds to proceed against this petitioner in C.C.No.211 of 2011.

8. In the result, this Criminal Petition is allowed, quashing the proceedings in C.C.No.211 of 2012 on the file of the Court of Judicial Magistrate of First Class, Jadcherla, Mahbubnagar district.

9. As a sequel, miscellaneous petitions if any, pending in this Criminal Petition shall stand closed.

JUSTICE GUDISEVA SHYAM PRASAD.

06/04/2018
IsL

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL PETITION NO. 10229 OF 2013

Date: 06/04/2018
Circulation No. 184
Court Master: I s L