

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.12685 OF 2017

ORDER:

This petition is filed under Section 438 of Code of Criminal Procedure (for short "Cr.P.C.") to quash the proceedings against the petitioners/A-10 & A-11 in C.C.No.800 of 2017 on the file of VIII Special Magistrate at Cyberabad, Miyapur, registered for the offence punishable under Section 138 r/w Section 142 of Negotiable Instruments Act.

Dealing with similar circumstances on 07.02.2018 in CrI.P.No.12216 of 2017, this Court passed an order, the operative portion is to the following effect:

"4. Learned counsel for the petitioners-A7 to A9 would submit that as per the allegations made in the complaint, KESPL has fallen due an amount of Rs.25,59,700/- and the Managing Director of the said company i.e., A2 had issued a cheque to the 2nd respondent/complainant for the said sum to discharge the liability. It is also contended that the petitioner-A7 is the company, petitioner-A8 is the Managing Director of the said company and the petitioner-A9 is the Director of the said company. The petitioners have nothing to do with the work executed by the complainant as well as the cheque given by A2 on behalf of A1 to the 2nd respondent/complainant.

5. In the complaint, it is averred that A1 to A6 are the sub contractors of A7 to A11. All the accused involved in conducting day-to-day affairs of the association. Even if it is believed, neither impugned cheque was issued by the petitioner-A7 nor by its Managing Director i.e., A8. Therefore, it can be concluded that the allegations levelled against them in the complaint do not constitute an offence under Section 138 of the N.I. Act. Therefore, the criminal proceedings are liable to be quashed.

6. Accordingly, the Criminal Petition is allowed quashing the proceedings against the petitioners-A7 to A9 in C.C.No.800 of 2017 on the file of the VIII Special Magistrate at Cyberabad, Miyapur. Miscellaneous petitions, if any pending in this Criminal Petition shall stand closed."

Learned counsel for the petitioners places on record the same order and requests this Court to pass similar order. Acceding to the request of the learned counsel for the petitioners, let, there be a similar order even in this case.

In the result, the criminal petition is allowed, by quashing the proceedings against the petitioners/A-10 & A-11 in C.C.No.800 of 2017 on the file of VIII Special Magistrate at Cyberabad, Miyapur.

Consequently, miscellaneous petitions pending, if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:20.07.2018

SP

