

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.12211 of 2017

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the proceedings in C.C.No.637 of 2017 on the file of XIX Metropolitan Magistrate, Miyapur at Kukatpally, registered for the offence punishable under Section 138 of the Negotiable Instruments Act (for short 'the Act')

The 2nd respondent filed private complaint before the Magistrate alleging that A1 represented by A2 issued cheques bearing Nos.000302, 000303, 000304, 000305 and 000306, dated 06.05.2017 for Rs.50,00,000/- each drawn on The Karur Vysya Bank Limited towards discharge of legally enforceable debt and on presentation of those cheques for collection with City Union Bank Limited, Kukatpally Branch, Hyderabad, they were returned with an endorsement 'payment stopped by drawer' and thereafter, a notice in compliance of proviso to Section 138(b) of the Act was issued calling upon the accused to pay the dishonoured cheques amount within stipulated time. Even after receipt of notice, the petitioners and other accused neither paid any amount nor issued any reply. The petitioners arrayed as accused on the sole ground that they are Directors of A1 company.

The main contention of the petitioners before this Court is that they being the Directors of A1 company, who are not participating in the day-to-day business, are not liable to be prosecuted for the offence punishable under Section 138 of the Act.

During hearing learned counsel for the petitioners reiterated the contentions raised in the petition.

Learned counsel for the 2nd respondent supported the case of the prosecution based on the allegations made in last three lines of para 2 of the complaint.

Admittedly, the petitioners are Directors and not participating in day to day affairs of A1/company. Even if the allegations made in para 2 of the complaint are accepted as true, when they are not participating in day to day affairs of the company and not Executive Directors of A1 company, they cannot be prosecuted under Section 138 of the Act taking aid of Section 141 of the Act, in view of law declared by the Apex Court in ***National Small Industries Corporation Limited v. Harmeet Singh Paintal***¹. Hence, the criminal proceedings are liable to be quashed.

In the result, the criminal petition is allowed quashing the proceedings in C.C.No.637 of 2017, pending on the file of XIX Metropolitan Magistrate, Miyapur at Kukatpally against the petitioners/A3 to A6.

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

01.10.2018
kvrm

M. SATYANARAYANA MURTHY, J

¹ (2010) 3 SCC 330