

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO.12216 OF 2017

ORDER:

This petition is filed by the petitioners-A7 to A9 under Section 482 Cr.P.C. to quash the proceedings in C.C.No.800 of 2017 on the file of the VIII Special Magistrate at Cyberabad, Miyapur, which was taken cognizance of the offence punishable under Section 138 r/w 142 of the Negotiable Instruments Act.

2. Heard learned counsel for the petitioners-A7 to A9. No representation on behalf of the 2nd respondent-complainant.

3. Notice was served on the 2nd respondent-complainant on two occasions to the address given in the complaint. But the notices were returned un-served with an endorsement that no such person is available. Therefore, the notice on the 2nd respondent-complainant is held sufficient.

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 leveled 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.

DATED: 07-02-2018.
Hsd

DR.SHAMEEM AKTHER, J

