

HONOURABLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.9805 of 2018

ORDER:

The petitioner is accused No.2 by name Mrs. Aarti Grover in CC.No.349 of 2019 on the file of III Special Metropolitan Magistrate, Hyderabad, taken cognizance for the offence punishable under Section 138 NI Act on the complaint of the 2nd respondent-M/s. Mahalakshmi Finance rep. by its Proprietor Sri V.Vijendra Kumar, against the petitioner as A.2 along with along with her husband Manoj Kumar Grover for the so called dishonour of the cheque bearing No.000036 that was for a sum of Rs.7,00,000/- on 09.02.2018 presented dishonoured and after statutory notice for non-payment from the accrual of cause of action filed the complaint and taken cognizance. By impugning the same and seeking to quash the same, the present petition is filed.

Heard learned counsel for the petitioner/A2 and learned counsel for the complainant and perused the private complaint, grounds in the quash petition and also the cheque in question.

A perusal of the cheque in question shows the petitioner-A2 is not one of the drawers of the cheque, but for A.1 her husband who signed from the joint account of both of them. Undisputedly there is no signature of her on the cheque from the joint account and merely because it is from the joint account she cannot be made personally liable for not the drawer of the cheque and for not a case of cheque issued by the entity and the petitioner is vicariously liable along with the entity as the case may be.

Having regard to the above from the expression of the Apex Court in **Aparna A.Shah Vs. Sheth Developers**¹, this Criminal Petition is allowed for the cognizance order so far as the petitioner/A2 taken by the learned Magistrate to proceed against the petitioner is unsustainable and set aside.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 04.02.2019
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¹ 2013 CrI.L.J. 3743