

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION Nos.9865, 9873 and 9883 OF 2022

COMMON ORDER:

1. Criminal Petition No.9865 of 2022 is filed questioning the proceedings in C.CNo.6261 of 2021 on the file of II Additional Metropolitan Magistrate, Ranga Reddy District at L.B.Nagar. The case of the 2nd respondent/complainant is that he was asked by the accused for investment in their company, for which reason, Rs.9,70,000/- was paid by way of account transfer on 31.10.2016 and Rs.30,000/- cash was given to the petitioner company. Though promise was made to give interest, no such interest was paid. However, cheque for Rs.10.00 lakhs dated 03.06.2019 was issued in favour of the 2nd respondent/complainant.

2. Criminal Petition No.9883 of 2022 is filed questioning the proceedings in CC No.6266 of 2021. In the said complaint, the 2nd respondent/complainant states that he has been legal officer to the accused company and when they asked for financial assistance for business development, Rs.10.00 lakhs was paid through account of T.Uma Sri Devi, who is the sister of the complainant. Towards repayment of the said amount, Rs.20.00 lakhs cheque was given on 03.06.2019.

3. Criminal Petition No.9873 of 2022 is filed questioning the proceedings in CC No.5585 of 2021. The case of the complainant/2nd respondent is that since company was in need of money, he paid an amount of Rs.30.00 lakhs through his sister T.Uma Sri Devi's account. Towards repayment of the said amount, Rs.20.00 lakhs cheque was given on 03.06.2019.

4. In all the three cases, complainant is one and the same and the accused firms are run by one family.

5. The said cheques when presented for clearance, all the cheques in all the three cases were returned for the reason of 'payment stopped by drawer'. Aggrieved by the said return of cheques and not paying the amount after issuance of notices, present three complaints were filed.

6. The main ground on which the learned counsel for the petitioners in all the three petitions filed the present petitions is compromise that was entered into in the month of February, 2022 and paying the amounts due to the complainant. The said amounts were received by the complainant and acknowledged. The photographs of the complainant receiving amounts and also the said Memorandum of Settlement Agreement and Memorandum of

Understanding were entered into. The Compromise Settlement Agreement and the Memorandum of Understanding were signed by the 2nd Respondent/ complainant.

7. The complainant-Advocate appeared in person and stated that there was never any settlement and the photographs which are filed are wrongly interpreted in the manner as receiving the settlement amount. He has not appended his signatures either in the Compromise Settlement Agreement or in the Memorandum of Understanding.

8. Perused the copy of the complaint filed in trial Court, the Compromise Settlement Agreement and also the Memorandum of Understanding. The signatures of Complainant-Advocate in the complaint filed by him, when compared with the signatures in the Compromise Settlement Agreement and also the Memorandum of Understanding appear to have been made by one person. However, since the complainant has not come forward to acknowledge the settlement, the cases cannot be quashed on the ground of compromise or that the amounts were paid to the complainant.

9. The offence under Section 138 of the Negotiable Instrument Act is made out once the payment is not made within 15 days

period of receiving the notice. The settlement or compromise can be considered by this Court at the instance of both parties. Though the documents and the photographs appear to be genuine, since the complainant-party in person-Advocate is refusing and stating that the documents were all fabricated, this Court cannot quash the proceedings. A close observation of photographs would reveal that the bag in the hands of the complainant contains cash. The trial Court is directed to consider the evidence provided by the accused regarding the payments made to the complainant and proceed accordingly.

10. With the above observations, all the Criminal Petitions are disposed off. As a sequel thereto, miscellaneous applications, if any, shall stand closed.

Date: 16.12.2022
kvs

K.SURENDER, J

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