

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

WEDNESDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SRI JUSTICE E.V. VENUGOPAL

CRIMINAL PETITION Nos: 6371 AND 6348 OF 2015

CRIMINAL PETITION No: 6371 OF 2015

Between:

Suddala Raghu, S/o. S. Jawahar, Aged about 30 years, Occ- Un-employee,
R/o. Plot No. 161, RNS colony, Boduppal, Hyderabad-500 092.

...Petitioner

AND

1. The State of Telangana, Represented by its Public Prosecutor, High Court at Hyderabad.
2. Kolipaka Laxminarsaiah, S/o. Late K. Laxminarayana, Aged about 39 years, Occ- Business, R/o. H.No. 4-1-136, Amar Nagar, Peddapally (Postand Mandal), Karimnagar District, Telangana-500 067

...Respondent

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the proceedings against the petitioner/Accused No.2 in C.C.No.52 of 2015 on the file of the IV Special Magistrate, Errammanzil, Hyderabad.

I.A. NO: 2 OF 2015(CRLPMP. NO: 6284 OF 2015)

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in C.C.No. 52 of 2015 on the file of the IV Special Magistrate, Erramanzil, Hyderabad, including the personal appearance of the petitioner/accused No.2 pending disposal of the criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri T. NATRAJ, Advocate for the Petitioner and the Public Prosecutor on behalf of the Respondent No.1 and of Sri K. HANMANDLU, Advocate for the Respondent No.2.

CRIMINAL PETITION No: 6348 OF 2015

Between:

Suddala Raghu, S/o. S. Jawahar, Aged about 30 years, Occ- Un-employee,
R/o. Plot No. 161, RNS colony, Boduppal, Hyderabad-500 092.

...Petitioner

AND

1. The State of Telangana, Represented by its Public Prosecutor, High Court at Hyderabad.
2. Kolipaka Lavanya, W/o K.Laxman, Advocate, Aged about 30 yers,
Occ:Housewife, R/o.H.No.8-373-5/A, Saibaba Nagar, Street No.4, Near
Padma Nagar Phase-II. Suchitra(post), Hyderabad-500067.

...Respondent

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the proceedings against the petitioner/Accused No.2 in C.C.No.198 of 2015 on the file of the IV Special Magistrate, Errammanzil, Hyderabad.

I.A. NO: 2 OF 2015(CRLPMP. NO: 6284 OF 2015)

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay all further proceedings in C.C.No. 52 of 2015 on the file of the IV Special Magistrate, Erramanzil, Hyderabad, including the personal appearance of the petitioner/accused No.2 pending disposal of the criminal petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri T. NATRAJ, Advocate for the Petitioner and of Sri. HIZARATH ALI, Assistant Public Prosecutor on behalf of the Respondent No.1 and for the Respondent No.2. not appeared either in person or by Advocate.

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE E. V. VENUGOPAL**CRIMINAL PETITION Nos.6371 and 6348 OF 2015****COMMON ORDER:**

Since the issue involved in these two Criminal Petitions is one and the same, they are heard together and being disposed of by way of common order.

2. These two Criminal Petitions are filed under Section 482 of Cr.P.C seeking to quash the proceedings initiated against the petitioner/A2 in C.C.No.52 of 2015 and C.C.No.198 of 2015, both on the file of the learned IV Special Magistrate, Erramanzil, Hyderabad (for short, "the trial Court").

3. Heard Mr.Natraj, learned counsel appearing on behalf of petitioner/A2, Mr. Vizarath Ali, learned Assistant Public Prosecutor appearing for the respondent No.1-State. Despite notice, there is no representation on behalf of respondent No.2.

4. For the sake of convenience, the facts in Criminal Petition No.6371 of 2015 are discussed hereunder:-

5. The brief facts of the case are that, the Station House Officer, Narayanaguda Police Station, Hyderabad, received a private complaint through the learned IX Additional Chief Metropolitan Magistrate, Hyderabad, in which respondent No.2/*de facto* complainant stated that accused Nos.1 and 2, who are Managing Partners of M/s.Shree Venz Surgicals, approached the de-facto complainant on 20.04.2013 and requested for a hand loan for the sake of business expansion with a promise to repay the same with interest @ 2% within 12 months and borrowed a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) and Rs.5,00,000/- from the de-facto complainant in C.C.No.198 of 2015. The accused No.1 has executed a promissory note for a sum of Rs.10,00,000/- in favour of de-facto complainant in C.C.No.52 of 2015 on 23.04.2013 at Praja Sai Hospital, Ashoknagar, Hyderabad, in the presence of Mr.B.Samuel Kumar and Dr.Kiran and the petitioner/accused No.2 signed on the promissory note as security. On repeated demands made by the de-facto complainants, the accused No.1, being authorized signatory, issued cheques bearing No.000262 dated

16.07.2014 for an amount of Rs.5,00,000/-, cheque bearing No.000263 dated 30.09.2014 for an amount of Rs.5,00,000/- in C.C.No.52 of 2015; and cheque bearing No.000264 dated 06.09.2014 for an amount of Rs.5,00,000/- in C.C.No.198 of 2015, respectively, drawn on Karur Vysya Bank, Himayathnagar Branch, Hyderabad, in favour of the de-facto complainants towards repayment of the amount due to them.

6. On presentation, the said cheques were dishonoured with an endorsement "Funds Insufficient" vide cheque return Memos dated 07.10.2014 and 08.10.2014 and the accused failed to pay the said amount.

7. On dishonour of the said cheques, the de-facto complainants, filed C.C.No.52 of 2015 and C.C.No.198 of 2015 before the trial Court stating that the accused have committed the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and prayed to award compensation of double the amount of cheques. Challenging the proceedings in C.C.No.52 of 2015 and

C.C.No.198 of 2015, these two Criminal Petitions are filed praying to quash the said proceedings.

8. Learned counsel for the petitioner/A2 submitted that the petitioner got issued a reply notice dated 03.11.2014, categorically stating that he is neither a partner of Shree Venz Surgicals, nor issued the cheques in question, nor he availed the loan as alleged in the complaint and petitioner is not responsible for the activities of the Shree Venz Surgicals such as issuance of cheques to the creditors. He further contends that the petitioner is not an authorized signatory to the cheques in question and hence, he cannot be made liable for the amounts involved under the said cheques as alleged in the complaint and there is no valid and enforceable debt against the petitioner herein. Learned counsel for the petitioner relied upon a decision of the Hon'ble Supreme Court in **Sunita Palita & Others Vs. M/s. Panchami Stone Quarry**¹, to substantiate his contention and contended that the cheques in question were issued on 16.07.2014, 30.09.2014 and 06.09.2014 for

¹ Arising out of SLP (Crl) No.10396 of 2019 dated 01.08.2022

an amount of Rs.5,00,000/- each by the authorized signatory of Shree Venz Surgicals in favour of de-facto complainants and the said bank account neither belongs to the petitioner herein nor has he signed on the said cheques. While referring to the records of Registrar of Firms maintained under Section 59 of the Indian Partnership Act, 1932, learned counsel for the petitioner would submit that it is an established fact that the petitioner is not an authorized signatory for the affairs of accused Company as his name is not shown in the said records. Therefore, prosecuting the petitioner is nothing but an abuse of the process of law. Therefore, he seeks to allow the Criminal Petition.

9. Despite service of notice and giving ample opportunity, there is no representation on behalf of respondent No.2-complainant.

10. On the other hand, learned Assistant Public Prosecutor submitted that the petitioner was actively involved in the affairs of the Shree Venz Surgicals as on the date of issuance of cheque and, therefore, he is also

responsible for the affairs of the company. He, therefore, seeks to dismiss the criminal Petition.

11. Taking into consideration the submissions made by learned counsel for the respective parties and on an elaborate consideration of the material and evidence available on record, this Court is of the considered view that the petitioner is no way concerned with the cheques in question, as neither he issued the said cheques nor the said Bank account belongs to him. Hence, prosecuting the petitioner for the offence punishable under Section 138 of Negotiable Act, 1881 is nothing but an abuse of the process of law.

12. Accordingly, these criminal petitions are allowed and proceedings against the petitioner/A2 in C.C.No.52 of 2015 and C.C.No.198 of 2015 on the file of the learned IV Special Magistrate, Erramanzil, Hyderabad are hereby quashed.

Miscellaneous Petitions, pending if any, shall stand closed.

SD/- K.VENKAIAH
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The IV Special Magistrate, Erramanzil, Hyderabad
2. One CC to SRI. T. NATRAJ Advocate [OPUC]
3. One CC to SRI. K. HANMANDLU Advocate [OPUC]
4. Two CD Copies

HIGH COURT

DATED:22/11/2023



ORDER

CRLP.Nos.6371 AND 6348 OF 2015

ALLOWING OF THE BOTH CRIMINAL PETITIONS

⑥ VW
6/3/24