

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

**MONDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL NO: 38 OF 2022

Appeal under Section 378 (4) of Cr.P.C. against the Order dated 08-07-2019 made in C.C. No. 194 of 2018 on the file of the Court of the XIX Special Magistrate at Hyderabad.

Between:

Srinivas Rao Paturi, S/o. Late Paturi Jaganmohan Rao, Age 52 years, Occ. Business, R/o. Plot No. 123, G2, Geethika Residency, Near Satya Sai Nigamagamam, Srinagar Colony, Hyderabad 500 073

...Appellant / Complainant

AND

1. Sri Vaishnavi Cold Storage, A Partnership Firm bearing No. 121/2011 Having its Office at Thorraguntapalem Village, Jaggayyapeta Town & Mandal, Krishna District - 521175, Andhra Pradesh Rep. by its Managing Director Nelakuditi Hari Krishna
2. Nelakuditi Hari Krishna, S/o. Late Nageshwara Rao, Aged 33 years, Occ. Partner of Sri Vaishnavi Cold Storage, R/o. D.No. 6-61, Rythupeta, Nandigama Town, Nandigama Mandal, Krishna District, Andhra Pradesh
3. Nelakuditi Naga Sulochana Devi, W/o. Late Nageshwara Rao, Aged 51 years Occ. House wife, R/o. D.No. 6-61, Rythupeta, Nandigama Town, Nandigama Mandal, Krishna District, Andhra Pradesh

...Accused (A1 to A3)

4. The State of Telangana, Rep. by the Public Prosecutor, High Court for the State of Telangana, Hyderabad

...Respondent / Respondent

Counsel for the Appellant : Sri Raghuram

Counsel for the Respondent No. 2 & 3: Sri Rama Rao Kochiri

**Counsel for the Respondent No. 4 : Sri M Vivekananda Reddy
Assistant Public Prosecutor**

The Court delivered the following Judgment :

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No.38 OF 2022****JUDGMENT:**

1. This appeal is filed by the appellant/complainant against the order dated 08.07.2019 in C.C.No.194 of 2018 passed by the learned XIX Special Magistrate at Hyderabad.
2. Heard the learned counsel appearing for the appellant/complainant and the learned Assistant Public Prosecutor on behalf of the State.
3. C.C. is of the year, 2018. The appellant/complainant filed the case against A-1 to A-3 on the ground that A-1 firm had to pay Rs.50,44,764/- to the complainant. Cheque bearing No.999929 for the said amount was given on 06.03.2018. Since the said cheque was returned unpaid on 13.03.2018, personal cheque of A-3 dated 14.03.2018 was handed over to the complainant. The said cheque also when presented for clearance was returned unpaid on 20.03.2018.
4. The complainant got issued notices for the two dishonoured cheques. However, since the amount was not paid, the complaint was filed against A-1 to A-3 for the dishonour of both the cheques.

5. Learned Special Magistrate by order dated 08.07.2019 dismissed the complaint. The order reads as under:

"Complainant absent. A2 present. A3 absent petition filed and allowed. Counsel for complainant also not present. No representation. Docket shows that for the last 19 adjournments complainant continuously absent.

For last 10 adjournment the matter is coming for trial, but at any point of time either the complainant or their counsel did not turned up. It seems the complainant and their counsel have no interest to proceed with the case. I find no ground to keep the file pending. Hence complaint is dismissed for default and the accused A1 and A3 are acquitted."

6. The fact remains that for 19 adjournments, complainant was continuously absent and counsel did not turn up for 10 adjournments. In the said circumstances, the complaint was dismissed.

7. Learned Senior counsel appearing on behalf of the appellant would submit that the Appeal could not be preferred on account of COVID. In fact, the appellant/complainant was misled by his close associate regarding the case, as such, the complainant cannot be made to suffer in the said circumstances. He further submitted

that the complainant is inclined to abide by any conditions that may be imposed by this Court in the event of restoration of the complaint to its original file.

8. The prosecution of A-3 is on the basis of cheque being subsequently given by her after the cheque given by A-2 on behalf of A-1 was dishonoured. Admittedly, there is no outstanding insofar as A-3 is concerned. The transactions were in between complainant and A-1 firm.

9. Learned Senior counsel submitted that the complainant is ready to deposit Rs.6,00,000/- towards costs for wasting considerable time of the Court below by not attending the Court though complaint was filed.

10. To give a fair chance to prosecute the case, the order dated 08.07.2019 can be set aside insofar as A-1 and A-2 are concerned. The complaint stands dismissed against A-3. Accordingly, the complaint is restored on the file of concerned Court having the jurisdiction at present (since XIX Special Magistrate, Hyderabad stands abolished). The complainant shall pay Rs.6,00,000/- (Rupees Six Lakh only) towards cost as undertaken by him. Out of Rs.6,00,000/-, the complainant shall pay Rs.2,00,000/- to Telangana High

Court Bar Association, Rs.2,00,000/- to Sainik Welfare Board and Rs.2,00,000/- to the Legal Services Authority, Hyderabad within four weeks from the date of this order. Proof of payment of costs shall be filed before this Court and the Magistrate shall verify the payment made before restoring the complaint. Failure to deposit the said amount within the stipulated time, the dismissal order shall stand restored.

11. Accordingly, the Criminal Appeal is partly allowed.

//TRUE COPY//

Sd/- K. SRINIVASA RAO
JOINT REGISTRAR

SECTION OFFICER

To,

1. The XIX Special Magistrate at Hyderabad
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana, Hyderabad [OUT]
3. One CC to Sri Raghuram, Advocate [OPUC]
4. One CC to Sri Rama Rao Kochiri, Advocate [OPUC]
5. Two CD Copies

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HIGH COURT

DATED:18/11/2024



JUDGMENT

CRLA.No.38 of 2022

PARTLY ALLOWING THE CRLA

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31/12/2024