

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF NOVEMBER, 2015

BEFORE

THE HON'BLE MR. JUSTICE A.N.VENUGOPALA GOWDA

CRIMINAL PETITION NO.200482/2015

BETWEEN:

RATHOD RAMESH
S/O KHIRU NAIK
AGE: MAJOR,
OCC: EMPLOYEE IN B.H.E.L
R/O ROOM NO.958, B.H.E.L QUARTERS
RAMCHANDRAPURAM, MANDAL,
DIST. MEDAK (AP)

... PETITIONER

(BY SRI SHARANABASSAPPA K. BABSHETTY, ADV.)

AND:

RAJU
S/O SHIVARAM RATHOD
AGE: 33 YEARS
OCC: AGRICULTURE
R/O SRINAGAR PEDDA TANDA
POST VENKATAPUR,
TQ. CHINCHOLI, DIST. GULBARGA.

... RESPONDENT

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO ALLOW THIS PETITION, QUASH THE ORDER DATED 12.01.2015 AND ORDER DATED 18.04.2015 PASSED BY THE PRL. JMFC AT CHINCHOLI, IN P.C. NO.16/2013 (C.C. NO.382/2013) BY REJECTING THE APPLICATION FILED BY THE PETITIONER/ACCUSED U/SEC. 203 ND 190(1) (C) & 191 OF CRL.P.C., PENDING ON THE FILE OF THE PRL. JMFC AT CHINCHOLI, IN THE INTEREST OF JUSTICE.

THIS PETITION COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The respondent has instituted a private complaint under S.200 Cr.P.C. in P.C. No.16/2013 on the file of Prl. JMFC, Chincholi, against the petitioner / accused alleging commission of an offence punishable under S.138 of Negotiable Instruments Act, 1881. Cognizance of the offence was taken and C.C. No.382/2013 was registered and process was issued against the petitioner. An application, under S.203 Cr.P.C. having been filed by the accused / petitioner, upon consideration was rejected by an order dated 12.01.2015. Subsequently, another application was filed under Ss.190(1)(c) and 191 of Cr.P.C.

to transfer the case to the Sessions Judge Court at Sangaraddy Dist., Telangana State by contending that the cheque alleged to be issued by the accused was drawn on State Bank of Hyderabad, Ramachandrapuram Branch, Medak Dist. and that the learned Magistrate has no jurisdiction to try the complaint. Said application having been rejected by an order dated 18.04.2015, this petition was filed to quash the aforesaid orders dated 12.01.2015 and 18.04.2015.

2. Heard Sri Sharanabasappa K. Babshetty, learned advocate for the petitioner and perused the record.

3. Undisputedly, the cheque in question was presented at Krishna Grameena Bank, Kunchavaram Branch, Chincholi Taluk and was sent through its main branch at Bidar for clearance. State Bank of Hyderabad, on which the cheque was drawn, having returned the cheque unhonoured with endorsement "funds insufficient", the cheque was returned to the complainant at his bank along with endorsement dated 24.05.2013. It is with

reference to the said endorsement, complaint was presented before the JMFC, Chincholi.

4. Petitioner questions the jurisdiction of the Court with reference to the decision of this Court in RAMKUMAR Vs. SMT. BEENA VIJAYKUAMAR, (2014) 4 AKR 103. The Trial Judge having noticed the decision of the Apex Court in DASHRATH RUPSINGH RATHOD Vs. STATE OF MAHARASHTRA, (2014) 9 SCC 129, has held that the complaint is maintainable since the cheque in question was returned by the bank, to which it was presented, and the said bank being situated in its jurisdiction.

5. Sri Sharanabasappa did not contend that the impugned orders are contrary to the ratio of decision in the case of DASHRATH RUPSING RATHOD (supra). The Trial Judge having noticed the decision of the Apex Court in DASHRATH RUPSING RATHOD (supra), has rightly not applied the law in the case of RAMKUMAR (supra). The impugned orders being in consonance with the said

decision of the Apex Court and there being no illegality, interference in exercise of the power under S.482 Cr.P.C. is not called for.

In the result, petition being devoid of merit, is rejected.

Sd/-
JUDGE

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