

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

Criminal Petition No.8119 OF 2016

Between:

M/s.Nirmala Infra Projects India Limited,
Rep. by its Directors Ch.Narasimha Reddy
and Ch.Rajendra Reddy, and 2 others

... Petitioners

And

1. The State of Telangana, rep. by
its Public Prosecutor, High Court
for the State of Telangana, Hyderabad

...Respondent

2. M/s.Sukh Sagar Ceramic Private Limited,
Rep. by its Managing Director Mr.B.Satish.

... Respondent/
defacto complainant

DATE OF JUDGMENT PRONOUNCED: 20.10.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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|---|--|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRL.P. No. 8119 of 2016

% Dated 20.10.2022

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defacto complainant

! Counsel for the Petitioners: Sri K.V.Krishna Rao.

^ Counsel for the Respondents: Public Prosecutor for R1
P.Panduranga Reddy for R2.

>HEAD NOTE:
? Cases referred

THE HON'BLE SRI JUSTICE K.SURENDER
CRIMINAL PETITION No. 8119 OF 2016

O R D E R:

This Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed seeking to quash proceedings in C.C.No.280 of 2016 on the file of I Additional Chief Metropolitan Magistrate, Nampally, Hyderabad. The petitioners herein are accused in the said case. The offence alleged against them is under Section 138 of the Negotiable Instruments Act.

2. Heard learned counsel for the petitioners and learned Assistant Public Prosecutor appearing for the State and perused the record.

3. The 1st petitioner is a Company and 2nd and 3rd petitioners are Directors of the 1st petitioner Company.

4. Briefly, the facts of the case are that the complainant Company carries on business in supplying stone ware glazed pipes (SWG) for underground drainage works. As the petitioners raised purchase orders, goods were supplied on various dates and as per the ledger account of the complainant as on 14.05.2014, the petitioners were due a sum of Rs.7 lakhs. Accordingly, to discharge the said debt, a cheque for Rs.7 lakhs was given by the petitioners which is dated 15.05.2014. The said cheque was presented for clearance and the same was returned by the Bank with an endorsement of 'funds insufficient'. The Complainant

company informed about the dishonor of the cheque for which reason, the petitioners asked the complainant company to present the cheque in the first week of August, 2014. Accordingly, the said cheque was presented on 08.08.2014 and the same was again returned for the reason of payment stopped by the drawer. The Complainant issued legal notice to the petitioners to pay the outstanding amount covered by the cheque, however, the said notice was returned as unclaimed on 08.09.2014. Aggrieved by the petitioners not paying the amount covered by the cheque inspite of notice, present complaint was filed.

5. Learned Counsel for the petitioners/accused would submit that when the cheque was returned unpaid, on 17.05.2014, immediately an amount of Rs.7,00,056/- was credited to the account of the complainant company by RTGS; and that for the said reason of paying the amount covered by cheque on the very next date when it was returned, the question of there being any outstanding does not arise. Further, the mount of Rs.56/- was also added which is the expenditure that could be collected by the Bank when the cheque is returned unpaid.

6. On the other hand, learned counsel for 2nd respondent/complainant submits that the total outstanding was Rs.14,86,153/-; and that the cheque was issued as part payment of amount due. He further submits that after receiving the said amount of Rs.7 lakhs which was credited to the account, the Account Statement

maintained by the complainant reflects that there is outstanding of Rs.7,86,153/- and that the said fact was also informed before the concerned Court by filing a counter memo. A total amount of Rs.13,26,153/- was outstanding as on 21.01.2014.

7. The payment of Rs.7,00,056/- is not disputed by the complainant company which was made on 17.05.2014. According to the complaint, the outstanding as per the ledger account of the complainant company as on 14.05.2014 was Rs.7 lakhs for which reason, a cheque dated 15.05.2014 was given for Rs.7 lakhs. The legal notice also claims that the outstanding as per the ledger account as on 14.05.2014 was Rs.7 lakhs. The statement of account filed by the complainant does not reflect any transaction after 14.05.2014. Apparently, the statement of account was prepared to suit the case of the complainant.

8. The petitioners have immediately deposited an amount of Rs.7 lakhs into the account of the complainant by RTGS transfer on the very next date of dishonor of cheque. The said fact is not disputed by the complainant and as already discussed, it is the claim of the complainant that as on 14.05.2014 the ledger account reflects an outstanding of Rs.7 lakhs only. The statement of account appears to have been fabricated subsequently to show the outstanding, which is contrary to the claim of outstanding made in the complaint and legal notice. Since the amount covered by the cheque was paid on the next date of return of the cheque, there is no outstanding which is payable

and accordingly, this Court finds that in the background of payment of the amount there is neither any debt or liability which can be enforced against the petitioners. For the said reasons, the proceedings against the petitioners cannot be continued and are liable to be quashed.

9. Accordingly, the Criminal Petition is allowed and all the proceedings in C.C.No.280 of 2016 on the file of I Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, against the petitioners, are quashed.

Miscellaneous applications pending, if any, shall stand closed.

K.SURENDER, J

20.10.2022

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Note: L.R.Copy

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO. 8119 OF 2016

Dt. 20.10.2022

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