
(1992) 07 AP CK 0008

In the Andhra Pradesh High Court

Case No : Criminal Petition No. 1157 of 1992

Y. Venkateswara Rao

APPELLANT

Vs

Mahee Handlooms Pvt. Ltd. and Others

RESPONDENT

Date of Decision : 21-07-1992

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 200
Negotiable Instruments Act, 1881 (NI) — Section 138A(1), 138A(2), 141, 142

Citation : (1993) 1 CivCC 196 : (1994) 79 CompCas 206 : (1993) CriLJ 2362 :
(1993) 3 RCR(Criminal) 282 : (1993) 2 RCR(Criminal) 188

Hon'ble Judges : Iyyapu Panduranga Rao, J

Bench : Single Bench

Advocate : B. Adinarayana, for the Appellant; Public Prosecutor, for the Respondent

Judgement

1. Heard the learned counsel for the petitioner and the Public Prosecutor.
2. This petition is directed under S. 482, Cr.P.C. to call for the records relating to C.C. No. 184/1991 on the file of the VI Metropolitan Magistrate, Hyderabad and to quash the same and direct the learned Magistrate to proceed further as contemplated under Chapter XV of the Code of Criminal Procedure (in brief "the Code").
3. The petitioner filed a criminal case under S. 200, Cr.P.C. against the respondents 1 and 2 under sections 138(a) and 141 of the Negotiable Instruments Act, 1881. The said complaint was filed under dated 19-2-1991. On the same day the learned Magistrate referred the case under S. 156(3) of the Code to the police for further enquiry; on 20-2-1991 on the basis of the said complaint a crime was registered in CrI. No. 40/91 on the file of P.S. Amberpet; they further enquired into the matter and laid charge sheet against the respondents 1 and 2 which was taken cognizance by the learned Magistrate and while he was proceeding further, alleging that taking cognizance of the case by the Magistrate on a police report is not warranted as per the provisions of S. 142

of the Negotiable Instruments Act, the revision petitioner complainant filed the present criminal petition.

4. Section 142 of the Negotiable Instruments Act in so far as it is relevant reads as follows :

"142. The cognizance of the offences :

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) no Court shall take cognizance of any offence punishable under S. 138 except upon the complaint in writing, made by the payee, or, as the case may be, the holder in due course of the cheque."

5. As evidenced by S. 142(a) of the Negotiable Instruments Act no Court shall take cognizance of any offence punishable under S. 138 except upon a complaint in writing made by the payee or as the case may be, the holder in due course of the cheque. In the present case, the case taken cognizance on a police complaint and consequently, as rightly submitted by the learned counsel for the petitioner the complaint is not taken on file properly. In view of the provisions of S. 142(a) of the Negotiable Instruments Act the proceedings in C.C. 184/91 on the file of VI Metropolitan Magistrate are quashed on and from referring the case by the learned Magistrate under S. 156(3) of the Code and thereafter. The learned Magistrate shall proceed further with the case in accordance with the provisions of Chapter XV of the Code and dispose of the same in accordance with law.

6. Order accordingly.