# IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE $18^{TH}$ DAY OF JULY, 2019

#### **BEFORE**

# THE HON'BLE Mr.JUSTICE P.S.DINESH KUMAR CRIMINAL PETITION NO.2048 OF 2019

#### BETWEEN:

SMT. R.JALAJA DEVI AGED ABOUT 45 YEARS, W/O SHRI BAHUBALI, PROPRIETER, M/S UJWALA INFOTECH, UJWALA COMPUTER INSTITUTE, NO.1, KANISHKA ARCASE ABOVE MAYURA BAKERY BANK CIRCLE, BARSHETTAHALLI, NEAR RAILWAY BRIDGE END DODDABALLAPUR, BANGALORE-560 016.

...PETITIONER

(BY SHRI RISHI PAL SINGH VARMA, ADVOCATE)

#### <u>AND:</u>

M/S POORVIKA ENTERPRISES REP. BY PROPRIETOR, SMT. NANDINI M.N., AGED 28 YEARS, W/O KALIA D.M., NO.107/J-R.W.F. QUARTERS, YELAHANKA NEW TOWN, BANGALORE-560 064.

... RESPONDENT

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO SET ASDIE THE ORDER OF COGNIZANCE OF OFFENCE IS TAKEN UNDER COMPLAINT FILED BY THE RESPONDENT/COMPLAINANT UNDER SEC.200 OF CR.P.C A/W SEC.138 OF N.I.ACT AGAINST TEH PETITIONER U/S.204 OF CR.P.C., ON IN THE COURT OF THE XVIII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, AT BANGALORE IN C.C.NO.26230/2018 AND ACQUIT THE PETITIONER/ACCUSED FROM THE CHARGE AGAINST HIM UNDER SEC.138 OF N.I.ACT.

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

### <u>ORDER</u>

Petitioner has challenged order dated 30.07.2018 passed by XVIII Additional Chief Metropolitan Magistrate, Bangalore, taking cognizance of offence punishable under Section 138 of Negotiable

Instruments Act, 1881 (hereinafter referred to as the "Act").

- 2. Shri Rishi Pal Singh Varma, learned advocate for the petitioner urged following grounds:
  - that when the complainant was crossexamined by the learned advocate for the petitioner with regard to currency notes, the complainant has stated that he had paid the amount by cash;
  - that entire transaction is fabricated to suit the complainant's story; and
  - that the contents of the cheque have not been written by the accused.
- 3. With the above submissions, learned advocate for the petitioner urged that entire criminal

proceedings initiated against the accused amoun to abuse of process of law.

4. It is relevant to note that the petitioner has challenged the order dated 30.07.2018 where under the learned Magistrate has taken cognizance of offence by recording thus.

"Complainant present. Put up and register PCR. Call on for Sworn statement by 21.08.2018.

### Sd/-XVIII Addl. C.M.M., Bangalore".

- 5. I have carefully perused the complaint also.
- 6. The complaint contains averments with regard to dishonour of cheque for insufficient funds, issuance of legal notice and non-payment of amount by the accused after receipt of legal notice.

- 7. Before taking cognizance, the learned Magistrate is expected to examine the complaint and the documents, if any, annexed thereto. In this case, complainant has annexed a copy of the memo issued by the Bank intimating dishonour of cheque and a copy of the legal notice.
- 8. It is recorded by the learned Magistrate that after perusal of the complaint, cognizance of offence has been taken. Thus, the grounds urged in support of this petition recorded hereinabove do not show as to how the order taking cognizance is bad in law.
- 9. In the circumstances, no exception can be taken to the order passed by the learned Magistrate.

Resultantly, petition fails and it is accordingly dismissed.

In view of dismissal of the petition,  $I.A.No.1/2019 \ does \ not \ survive \ for \ consideration \ and \\ the \ same \ is \ disposed \ of.$ 

No costs.

Sd/-JUDGE

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