

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

**WEDNESDAY, THE THIRTIETH DAY OF NOVEMBER  
TWO THOUSAND TWENTY**

**PRESENT**

**THE HONOURABLE SRI JUSTICE K.SURENDER**

**CRIMINAL PETITION NOS: 9643, 9594 AND 9595 OF 2021**

**CRIMINAL PETITION NO.9643 OF 2021**

**Between:**

Smt Anjum Shaheda W/o Syed Khaja Ziauddin

**...Petitioner/Accused No.2**

**AND**

1. The State of Telangana, rep. by its  
Public Prosecutor, High Court for the State of Telangana.
2. Mohammed Nazeeruddin S/o late M.A.Aziz, R/o H.No.11-4-528/C,  
Bazar Ghat, Hyderabad.

**...Respondent/De-facto complainant**

Petition under Section 482 Cr.P.C. praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the STC No.1923 of 2020 on the file of the VIII Additional Chief Metropolitan Magistrate at Hyderabad against the Petitioner/Accused No.2 in the interest of justice.

**IA No.2 of 2021**

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay of all further proceedings including

the appearance of the Petitioner/Accused No.2 in STC No.1923 of 2020 on the file of the VIII Additional Chief Metropolitan Magistrate at Hyderabad pending disposal of the main criminal petition in the interest of Justice.

**CRIMINAL PETITION NO.9594 OF 2021**

**Between:**

Smt Anjum Shaheda W/o Syed Khaja Ziauddin

**...Petitioner/Accused No.2**

**AND**

1. The State of Telangana, rep. by its  
Public Prosecutor, High Court for the State of Telangana.
2. Mohammed Nazeeruddin S/o late M.A.Aziz, R/o H No.11-4-528/C,  
Bazar Ghat, Hyderabad.

**...Respondent/De-facto complainant**

Petition under Section 482 Cr.P.C. praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the STC No.1918 of 2021 on the file of the VIII Additional Chief Metropolitan Magistrate at Hyderabad against the Petitioner/Accused No.2 in the interest of justice.

**IA No.2 of 2021**

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay of all further proceedings including the appearance of the Petitioner/Accused No.2 in STC No.1918 of 2021 on the file of the VIII Additional Chief Metropolitan Magistrate at Hyderabad pending disposal of the main criminal petition in the interest of Justice.

**CRIMINAL PETITION NO.9595 of 2021**

**Between:**

Smt Anjum Shaheda W/o Syed Khaja Ziauddin

**...Petitioner/Accused No.2**

**AND**

1. The State of Telangana, rep. by its  
Public Prosecutor, High Court for the State of Telangana.
2. Mohammed Nazeeruddin S/o late M.A.Aziz, R/o H.No.11-4-528/C,  
Bazar Ghat, Hyderabad.

**...Respondent/De-facto complainant**

Petition under Section 482 Cr.P.C. praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to quash the STC No.1921 of 2021 on the file of the VIII Additional Chief Metropolitan Magistrate at Hyderabad against the Petitioner/Accused No.2 in the interest of justice.

**IA No.2 of 2021**

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to stay of all further proceedings including the appearance of the Petitioner/Accused No.2 in STC No.1921 of 2021 on the file of the IX Metropolitan Magistrate at Hyderabad pending disposal of the main criminal petition in the interest of Justice.

These three petitions coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petitions and upon hearing the arguments of Mr. M.A. Mujeeb, Advocate for the Petitioner in all three petitions and Mr. Mohd. Afzaluddin Dakdhani for the respondent No.2 and the Public Prosecutor, High Court of Telangana for the Respondent No.1 in all three Criminal Petitions.

**The Court made the following COMMON ORDER**

**THE HONOURABLE SRI JUSTICE K.SURENDER**

**CRIMINAL PETITION Nos.9643, 9594, 9595 OF 2021**

**COMMON ORDER:**

These Criminal Petitions are filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner/Accused No.2 seeking to quash the proceedings initiated against him in STC Nos.1923 of 2020 on the file of learned VIII Additional Chief Metropolitan Magistrate, Hyderabad and in STC Nos.1918, 1921 of 2021 on the file of learned IX Metropolitan Magistrate, Hyderabad.

2. Since the issue involved in all the these criminal petitions is regarding the maintainability of the prosecution against the petitioner/Accused No.2 herein, who is Accused No.2 in all these criminal petitions, these criminal petitions are heard together and being disposed of by this common order.

3. Heard learned counsel for the petitioner/Accused No.2 and learned Additional Public Prosecutor appearing for the respondent No.1 – State. Perused the record.

4. A perusal of record would reveal that the Accused No.1, who is the husband of the petitioner/Accused No.2, had taken loan of Rs.30,00,000/- from respondent No.2/*de facto* complainant herein. Thereafter when insisting for repayment, three cheques i.e. cheque bearing No.228669, dated 25.01.2020 for Rs.10,00,000/-, cheque bearing No.228670, dated 27.01.2020 for Rs.10,00,000/- and cheque bearing No.228671, dated 29.01.2020 for Rs.10,00,000/- were issued. The said cheques when presented for clearance were dishonoured for the reason of "insufficient funds" on 11.02.2020. Further, a notice was issued to the petitioner along with Accused No.1 for payment of the amounts covered under the said cheques. Accordingly, the accused No.1 assured about the availability of funds in his account, but the said cheques were dishonoured once again vide return memos dated 19.02.2020, and on 30.03.2020. Thereafter, the *de-facto* complainant got issued a legal notice dated 13.04.2020 and in spite of receipt of notice, as the amount covered under the above cheques were not paid, the *de-facto* complainant has filed the present complaints.

5. Learned counsel for the petitioner would submit that though the cheques were given from the joint account, the petitioner/Accused No.2 is not a signatory to the said cheques and, hence, no criminal liability can be fastened against the petitioner under Section 138 of the Negotiable Instruments Act. In support of his contention, he relied upon the judgment of this Court in **Kodam Danalakshmi vs. State of Telangana**<sup>1</sup>. In the said judgment, this Court, while relying upon a judgment of the Hon'ble Apex Court in **Aparna A. Shah v. Sheth Developers Pvt. Ltd.**<sup>2</sup>, held that though the petitioner therein was a joint account holder, in the absence of being a signatory to the said cheques, the said person cannot be prosecuted.

6. In the present case, as seen from the complaint of the respondent No.2/*de facto* complainant, the amount of Rs.30,00,000/- was given to Accused No.1 and cheques were also issued by Accused No.1, however, the said cheques were returned because of insufficient funds. After return of all the cheques, the respondent No.2/*de facto* complainant has stated in his complaint

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<sup>1</sup> (2021) 7 A.D. (cri) 1003

<sup>2</sup> (2013) 8 SCC 71

that the petitioner/Accused No.2, who is the wife of Accused No.1, being well aware of the entire transactions and also being a joint account holder, on which the cheques were drawn, is also liable to be prosecuted for the offence punishable under Section 138 of Negotiable Instruments Act.

7. As seen from the record, cheques were dishonoured and this petitioner is not a signatory. Even assuming that it is a joint account standing in the name of Accused No.1 and the petitioner/Accused No.2, unless the petitioner is a signatory to the said cheques, she cannot be prosecuted. The main allegation in the complaint is that she had knowledge of the loan being taken by the Accused No.1 and that she was present when the loan was given to the accused No.1 and also about the return of cheques.

8. In the present case, though the petitioner is a joint account holder, since she has not signed on the said cheques, petitioner cannot be prosecuted. Petitioner is no way concerned with taking loan transaction between Accused No.1 and complainant.

9. Vicarious liability would be applicable in cases of company or firm issuing cheques by virtue of Section 141 of N.I.Act. A wife

having knowledge about loan transaction of husband and husband issuing cheque on a joint account maintained by them, wife cannot be prosecuted unless with signs on the cheque. Therefore, the proceedings against the petitioner/Accused No.2 are liable to be quashed.

10. Accordingly, these Criminal Petitions are allowed and the proceedings against the Petitioner/Accused No.2 in STC Nos.1923 of 2020 on the file of learned VIII Additional Chief Metropolitan Magistrate, Hyderabad and in STC Nos.1918, 1921 of 2021 on the file of learned IX Metropolitan Magistrate, Hyderabad, are hereby be quashed.

Miscellaneous petitions pending, if any, in these criminal petitions shall stand closed.

//TRUE COPY//

Sd/-K.AMMAJI  
ASSISTANT REGISTRAR

SECTION OFFICER

To

1. The VIII Additional Chief Metropolitan Magistrate at Nampally, Hyderabad.
2. The IX Metropolitan Magistrate, Hyderabad
3. The Station House officer, Mirchowk Police Station, Hyderabad.
4. One CC to Mr. M.A.Mujeeb, Advocate [OPUC]
5. One CC to Mr. Mohd. Afzaluddin Dakhani, Advocate (OPUC)
6. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad (OUT)
7. Two CD copies

HIGH COURT

DATED: 30.11.2022

COMMON ORDER

CRLP Nos. 9643, 9594 and 9595 of 2021



ALLOWING THE CRIMINAL PETITIONS

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PM  
18/1/23