



**IN THE HIGH COURT OF ANDHRA PRADESH  
AT AMARAVATI  
(Special Original Jurisdiction)**

**[3396]**

**TUESDAY, THE SEVENTH DAY OF JANUARY  
TWO THOUSAND AND TWENTY FIVE**

**PRESENT**

**THE HONOURABLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA  
CRIMINAL PETITION Nos. 1603, 1605, 1606, 1608, 1609, 1611 AND  
1612 OF 2023 AND 5565, 5875, 5879, 5887, 5888, 5889, 5890, 5892,  
5893, 5894, 5895, 5896, 5897, 6329, 6331, 6333, 6486, 6502 & 7255 OF  
2022**

**COMMON ORDER:**

These Criminal Petitions are filed under Section 482 of Code of Criminal Procedure, 1973<sup>1</sup> by the Petitioners in a series of C.C.s on the file Court for the offence under Section 138 of the Negotiable Instruments Act, 1881<sup>2</sup>.

2. The above cases have been registered based on the private complaints filed by different Complainants against the Petitioners herein for the dishonour of the cheques alleged to have been issued by the Petitioners to the Complainants. For easy understanding the details of the complaints, along with the contentions of the Petitioners, in brief, are tabulated as under:

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<sup>1</sup> in short 'the Code'

<sup>2</sup> In short 'the N.I.Act'

| S.No | Criminal Petition No. | Name of the Complainant        | Issue in Question                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------|-----------------------|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1    | 1603/2023             | Yeraiahgari Venkateswara Reddy | <p>The A1 borrowed Rs.25,00,000/- as hand loan from R1 for developing his educational institution. The cheque was issued by A1 for an amount of Rs.25,00,000/- got dishonoured for want of funds.</p> <p>It is the contention of the petitioners that A2 has nothing to do with the liability of A1 since the cheque was issued and signed in A.1's personal capacity but not as a Correspondent of A2. The school cannot be punished only because the cheque belongs to the school. It is A1 that availed loan but not A2, as such A2 has no liability to pay any amount to R1 and A2 cannot be prosecuted and made a party to any civil or criminal proceedings.</p> <p>The A2 cannot be punished since there is no legally enforceable debt against A2 and the other accused also cannot be punished under Sec.142 NI Act.</p> |
| 2    | 1605/2023             | Vuluvapalli Pedda Konda Reddy  | <p>The A1 borrowed Rs.25,00,000/- as hand loan from R1 for developing his educational institution. The cheque was issued by A1 for an amount of Rs.25,00,000/- got dishonoured for want of funds.</p> <p>It is the contention of the petitioners that A2 has nothing to do with the liability of A1 since the cheque was issued and signed in A1's personal capacity but not as a Correspondent of A2. The school cannot be punished only because the cheque belongs to the school. It is A1 that availed loan but not A2, as such A2 has no liability to pay any amount to R1 and A2 cannot be prosecuted and made a party to any civil or criminal proceedings.</p>                                                                                                                                                             |

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|   |           |                           | <p>The A2 cannot be punished since there is no legally enforceable debt against A2 and the other accused also cannot be punished under Sec.142 NI Act.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 3 | 1606/2023 | Bobbala Nageswara Reddy   | <p>The A1 borrowed Rs.25,00,000/- as hand loan from R1 for developing his educational institution. The cheque was issued by A1 for an amount of Rs.25,00,000/- got dishonoured for want of funds.</p> <p>It is the contention of the petitioners that A2 has nothing to do with the liability of A1 since the cheque was issued and signed in A1's personal capacity but not as a Correspondent of A2. The school cannot be punished only because the cheque belongs to the school. It is A1 that availed loan but not A2, as such A2 has no liability to pay any amount to R1 and A2 cannot be prosecuted and made a party to any civil or criminal proceedings.</p> <p>The A2 cannot be punished since there is no legally enforceable debt against A2 and the other accused also cannot be punished under Sec.142 NI Act.</p> |
| 4 | 1608/2023 | Bekkam Rama Krishna Reddy | <p>The A1 borrowed Rs.25,00,000/- as hand loan from R1 for developing his educational institution. The cheque was issued by A1 for an amount of Rs.25,00,000/- got dishonoured for want of funds.</p> <p>It is the contention of the petitioners that A2 has nothing to do with the liability of A1 since the cheque was issued and signed in A1's personal capacity but not as a Correspondent of A2. The school cannot be punished only because the cheque belongs to the school. It is A1 that availed loan but not A2, as such A2 has no liability to pay</p>                                                                                                                                                                                                                                                                |

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|   |           |                            | <p>any amount to R1 and A2 cannot be prosecuted and made a party to any civil or criminal proceedings.</p> <p>The A2 cannot be punished since there is no legally enforceable debt against A2 and the other accused also cannot be punished under Sec.142 NI Act.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 5 | 1609/2023 | Chowdam Nagaraju           | <p>The A2 borrowed Rs.10,00,000/- as hand loan from R1 for developing his educational institution and issued a postdated cheque for Rs.10,00,000/-. The cheque was issued by A2 for an amount of Rs.10,00,000/- got dishonoured for want of funds.</p> <p>It is the contention of the petitioners that A1 has nothing to do with the liability of A2 since the cheque was issued and signed in A2's personal capacity but not as a Correspondent of A1. The school cannot be punished only because the cheque belongs to the school. It is A2 that availed loan but not A1, as such A1 has no liability to pay any amount to R1 and A1 cannot be prosecuted and made a party to any civil or criminal proceedings.</p> <p>The A1 cannot be punished since there is no legally enforceable debt against A1 and the other accused also cannot be punished under Sec.142 NI Act.</p> |
| 6 | 1611/2023 | Badiginchala Krishna Mohan | <p>The A2 borrowed Rs.10,00,000/- as hand loan from R1 for developing his educational institution and issued a postdated cheque for Rs.10,00,000/-. The cheque was issued by A2 for an amount of Rs.10,00,000/- got dishonoured for want of funds.</p> <p>It is the contention of the petitioners that A1 has nothing to do</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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|   |           |                        | <p>with the liability of A2 since the cheque was issued and signed in A2's personal capacity but not as a Correspondent of A1. The school cannot be punished only because the cheque belongs to the school. It is A2 that availed loan but not A1, as such A1 has no liability to pay any amount to R1 and A1 cannot be prosecuted and made a party to any civil or criminal proceedings.</p> <p>The A1 cannot be punished since there is no legally enforceable debt against A1 and the other accused also cannot be punished under Sec.142 NI Act.</p>                                                            |
| 7 | 1612/2023 | Burri Venkata Subbaiah | <p>The A2 borrowed Rs.20,00,000/- from R1 and executed a promissory note, for developing his educational institution. The cheque was issued by A1 for an amount of Rs.10,00,000/- got dishonoured for want of funds.</p> <p>It is the contention of the petitioners that A1 has nothing to do with the liability of A2 since the cheque was issued and signed in A2's personal capacity but not as a President of A1. The A1 has no legally enforceable liability. The other accused cannot be punished for the transaction between A2 and the R1. They are not liable to be punished under Sec. 141 of NI Act.</p> |
| 8 | 5565/2022 | Gondu Janardhana Rao   | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956345 dated 09.07.2015, for Rs.1,75,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the</p>                                                                                                                                                                                                                                                              |

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|   |           |                   | <p>complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p>                                                                                                                                                      |
| 9 | 5875/2022 | Batna Vengala Rao | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956291 dated 04.07.2015, for Rs.1,75,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The</p> |

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|    |           |                         | complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 10 | 5879/2022 | Batna Vengala Rao       | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956344 dated 09.07.2015, for Rs.1,50,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
| 11 | 5887/2022 | Kelavalasa Tirupati Rao | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956305 dated 05.07.2015, for Rs.2,25,000/- and the same was dishonoured for want of funds.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

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|    |           |                    | <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
| 12 | 5888/2022 | V. Bommi Reddy     | <p>The petitioner is the sole accused and he is Chairman of Kesava Reddy Residential School. It was alleged against him that he issued a cheque No. 851052 dated 04.08.2015, for Rs.10,00,000/- and the same was dishonoured for want of funds.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Kesava Reddy Residential School who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p>                                                                                                                                         |
| 13 | 5889/20   | Rambuktha Appa Rao | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956351 dated</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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|    |           |                   | <p>10.07.2015, for Rs.1,25,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
| 14 | 5890/2022 | Pagoti Gopala Rao | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956306 dated 05.07.2015, for Rs.1,50,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security</p>                                                                                                                                                |

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|    |           |                        | <p>deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 15 | 5892/2022 | Pagoti Gopala Rao      | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956307 dated 05.07.2015, for Rs.1,50,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
| 16 | 5893/2022 | Nallabakiri Satyavathi | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

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|    |           |                         | <p>which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956299 dated 05.07.2015, for Rs.1,75,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
| 17 | 5894/2022 | V. Vijaya Chandra Reddy | <p>The petitioner is the sole accused and he is Chairman of Kesava Reddy Residential School. It was alleged against him that he issued a cheque No. 640075 dated 04.08.2015, for Rs.10,00,000/- and the same was dishonoured for want of funds.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Kesava Reddy Residential School who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p>                                                                                                                                                                                                                                                                                                                                  |

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| 18 | 5895/2022 | Dandugula Pardha Saradhi | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956293 dated 28.08.2015, for Rs.1,50,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
| 19 | 5896/2022 | Matta Rama Krishna       | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956342 dated 09.07.2015, for Rs.1,75,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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|    |           |                       | <p>petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p>                           |
| 20 | 5897/2022 | V. Nagendranath Reddy | <p>The petitioner is the sole accused and he is Chairman of Kesava Reddy Residential School. It was alleged against him that he issued a cheque No. 851053 dated 04.08.2015, for Rs.10,00,000/- and the same was dishonoured for want of funds.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Kesava Reddy Residential School who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
| 21 | 6329/2022 | Telugu Someswara Rao  | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956282 dated 02.07.2015, for Rs.1,50,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant</p>                                                                                                                                                                                                                             |

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|    |           |                       | <p>towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p>                                                                                                                                                                                                                                                                                                                |
| 22 | 6331/2022 | Gondur Janardhana Rao | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956345 dated 09.07.2015, for Rs.1,75,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the</p> |

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|    |           |                           | cheque, the in-charge cannot be held liable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 23 | 6333/2022 | Chakka Satyanarayana      | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956347 dated 09.07.2015, for Rs.1,75,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
| 24 | 6486/2022 | Mallela Lakshmi Kanthamma | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Kesava Reddy Public School. It was alleged against him that he issued a cheque No. 802582 dated 04.09.2015, for Rs.10,00,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the cheque was issued for a debt amount lent by the complainant to the petitioner/accused for loan, by a</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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|    |           |                   | <p>promissory note dated 01.08.2013.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Kesava Reddy Public School who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 25 | 6502/2022 | Telugu Ramesh     | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Sri Surya Educational Society which runs Kesava Reddy School. It was alleged against him that he issued a cheque No. 956313 dated 06.07.2015, for Rs.1,50,000/- and the same was dishonoured for want of funds.</p> <p>As per the complaint, the amount was paid by the complainant towards security deposit since his son studied in the educational institution of the petitioner. The petitioner used to collect security deposits for students which will be returned at the time of discontinuation or end of studies in his school.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include the Sri Surya Educational Society who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
| 26 | 7255/2022 | Boggarapu Manohar | <p>The petitioner is the sole accused and he is Secretary/Correspondent of Kesava Reddy Public School. It was alleged against him that he issued two cheques Nos. 851079</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|  |  |  | <p>and 851077 dated 13.11.2014, each for Rs.5,00,000/- and the same were dishonoured for want of funds.</p> <p>As per the complaint, the cheques were issued for debt amount lent by the complainant to the petitioner/accused for loan, by a promissory note dated 10.09.2013.</p> <p>It is the contention of the petitioner that he is not liable for dishonour of the cheque since he is not the drawer of the cheque. The complaint did not include Kesava Reddy Public School who is a drawer of the cheque, as a party to the complaint. Without drawer of the cheque, the in-charge cannot be held liable.</p> |
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**3.** As seen from the facts of the above cases, it is clear that, some of the cases have been filed against Kesava Reddy Public School and its representatives on the ground that Accused No.1 had borrowed amount from the respective Complainants and in discharge of the said debt, cheques was issued to the Complainants and on presentation, the said cheques was dishonoured. In such cases, the Accused sought to quash the proceedings against them on the ground that there is no legally enforceable debt.

**4.** In some other cases, the amounts were paid by the respective Complainant towards security deposit, at time of admission of their sons in the educational institution of the Petitioner. The Petitioner used to collect security deposits for students which will be returned at the time of

discontinuation or end of studies in his school and executed a promissory note for the said security deposit amount. In those cases, it is the contention of the Petitioners that they are not liable for dishonour of the cheques since they are not the drawer of the said cheques.

5. The facts of the above cases would show that there is a mixed question of fact and law. Series of cases have been filed against the Petitioners and larger public interest is also involved therein. What transpired between the parties has to be decided during trial and it is not the stage to decide the contentions raised by both parties, while exercising the jurisdiction under Section 482 Cr.P.C, since they are the matter of trial.

6. The Hon'ble Apex Court in case of **Oriental Bank of Commerce v. Prabodh Kumar Tewari**<sup>3</sup> has held that a drawer who signs a cheque and hands it over to the payee, is presumed to be liable unless the drawer adduces evidence to rebut the presumption that the cheque has been issued towards payment of a debt or in discharge of a liability. The relevant portion is reproduced as under:

*"16. A drawer who signs a cheque and hands it over to the payee, is presumed to be liable unless the drawer adduces evidence to rebut the presumption that the cheque has been issued towards payment of a debt or in discharge of a liability. The presumption arises under Section 139."*

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<sup>3</sup> 2022 SCC OnLine SC 1089

7. In the instant cases, the questions as to whether there is any legally enforceable debt between the parties and whether the Petitioner is the drawer of the cheques, comes within the ambit of Section 138 of N.I.Act and they are the issues to be decided during trial. In view of the peculiarity of the contentions raised by both sides and the technicalities involved in all the criminal petitions, this Court is of the view that, they are the aspects to be decided during trial before the trial Court, but cannot be considered at this stage.

8. In that view, the Criminal Petitions are disposed of directing the respective trial Courts to dispose of the cases in accordance with law as expeditiously as possible.

Pending miscellaneous petitions, if any, shall stand closed.

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**Dr.JUSTICE VENKATA JYOTHIRMAI PRATAPA**

Date:07.01.2025  
*Dinesh*

**HON'BLE DR. JUSTICE VENKATA JYOTHIRMAI PRATAPA**

**CRIMINAL PETITION Nos. 1603, 1605, 1606, 1608, 1609, 1611 AND  
1612 OF 2023 AND 5565, 5875, 5879, 5887, 5888, 5889, 5890, 5892,  
5893, 5894, 5895, 5896, 5897, 6329, 6331, 6333, 6486, 6502 & 7255 OF  
2022**

Dated: 07.01.2025  
*Dinesh*