

REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. 1792 OF 2008
(Arising out of SLP(CrL.) NO. 6878/2007)**

M/s Sri Krishna Agencies

.. Appellant(s)

Versus

State of A.P. & Anr.

.. Respondent(s)

ORDER

Leave granted.

This appeal is directed against the judgment and order dated 24th September, 2007, passed by the Andhra Pradesh High Court in Criminal Petition No. 4508 of 2007 quashing the proceedings, being C.C. No. 982 of 2005, on the file of the IInd Additional Chief Metropolitan Magistrate, Hyderabad, under Section 138 of the Negotiable Instruments Act, 1981 (for short the Act) in exercise of powers under Section 482 of the Code of Criminal Procedure.

As would appear from the complaint, the same was filed on account of stop payment orders issued with regard to three cheques of Rs. 5 lakhs each.

Before the High Court, it was sought to be contended on behalf of respondent No. 2 that since the appellant herein had already taken recourse to arbitration proceedings, the

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dispute was obviously of a civil nature and the criminal complaint could not be proceeded with. Accepting the statements made on behalf of respondent No. 2, the High Court quashed the complaint as indicated hereinabove.

Mr. Adhyaru, learned senior counsel appearing in support of the appeal, submitted that the High Court has apparently confused the issue relating to the continuance of the arbitration proceedings as also the criminal proceedings, since when the cheques were dishonoured, a separate liability arose in terms of Section 138 of the Act, whereas the arbitration proceedings were under the agreement signed between the parties. It was submitted by him that the commencement and the continuance of the arbitration proceedings could in no way affect criminal proceedings taken separately.

In support of his submissions, Mr. Adhyaru, referred to the decision of this Court in Trisuns Chemical Industry vs. Rajesh Agarwal and Ors., (1999) 8 SCC 686, where the same question arose in relation to arbitration proceedings taken during the continuance of a complaint filed under Sections 415 and 420 of the Code of Criminal Procedure. In the said decision, it was held that merely because arbitration

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proceedings have been undertaken, the criminal proceedings could not be thwarted.

On behalf of respondent No. 2, the submissions which had been urged before the High Court, were reiterated, which, however, appears to be unacceptable having regard to the decision cited by Mr. Adhyaru. We are also of the view that there can be no bar to the simultaneous continuance of a criminal proceeding and a civil proceeding if the two arise from separate causes of action. The decision in Trisuns Chemical Industry's case (supra) appears to squarely cover this case as well.

We, accordingly, allow the appeal and set aside the order passed by the High Court and restore the complaint before the learned IInd Additional Chief Metropolitan Magistrate, Hyderabad to be proceeded with in accordance with law.

.....J

[ALTAMAS KABIR]

.....J

[MARKANDEY KATJU]

NEW DELHI,
NOVEMBER 11, 2008.