

M. Rajender Vs. State of A.P. and Another

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Court : Andhra Pradesh

Decided On : Jan-27-1999

Reported in : 1999(4)ALD40; 1999(2)ALD(Cri)326; 1999(1)ALT777; 1998(2)ALT(Cri)101

Judge : Bilal Nazki, J.

Acts : [Negotiable Instruments Act, 1881](#) - Sections 138 and 141

Appeal No. : Crl. P No. 4907 of 1998

Appellant : M. Rajender

Respondent : State of A.P. and Another

Advocate for Def. : Public Prosecutor

Advocate for Pet/Ap. : Mrs. C. Jayashree Sarathy, Adv.

Judgement :

ORDER

1. Heard the parties. It is the case of the petitioner that he is a partner of a firm and the complaint itself does not disclose that any notice was given to him before the proceedings were started against him under Section 138 of Negotiable Instruments Act. Essentially, it is a question of fact whether a notice was served on the accused or not. Even otherwise, if it is presumed that no notice had been given

to the present petitioner who is accused No.2 and only a notice had been given to the firm of which admittedly he is a partner, I am of the view that was sufficient compliance of Section 138 of Negotiable Instruments Act. The accused who is the petitioner before this Court is a partner of firm which issued the cheque which is subject matter of the complaint and a notice was given to the firm under Section 138 of the Act. The present petitioner who is accused No.2 is only arrayed as an accused by virtue of the provision of Section 141 of the Negotiable Instruments Act and in my view notice to the Company was sufficient compliance of Section 138 and no separate notice need be given to all the accused. With these observations, I do not find any merit in this petition, it is accordingly dismissed. Stay has been granted by this Court and a vacate stay application has been filed, but since the matter is short, after hearing the parties, the petition itself is decided.

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