

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl) No(s).2816/2012

(From the judgement and order dated 21/02/2012 in CRLP No.730/2011, of The HIGH COURT OF A.P AT HYDERABAD)

MANODIPAK RAY

Petitioner(s)

VERSUS

M/S THERMAL SYSTEMS P.LTD.& ANR
(With appln(s) for stay and office report)

Respondent(s)

WITH SLP(Crl) NO. 3176 of 2012
(With appln. for stay and permission to file addl. documents and office report)

SLP(Crl) NO. 6110-6111 of 2012
(With appln. for stay and office report)

Date: 13/09/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s) Mr. P.S.Patwalia, Sr. Adv.
Mr. T. Harish Kumar, Adv.
Mr. V.Vasudevan, Adv.

For Respondent(s) Mr. V.Giri, Sr. Adv.
Ms. Vismai Rao, Adv.
Mr. Y. Raja Gopala Rao, Adv.
Mr. Hitendra Nath Rath, Adv.

UPON hearing counsel the Court made the following
O R D E R

These special leave petitions arise out of proceedings under Section 138 of the Negotiable Instruments Act instituted by the respondent-company against the petitioners for dishonour of two cheques one of which is for a sum of Rs. 24,27,466/- and the other for a sum of Rs. 25,00,000/-. We are told by learned counsel for the parties that the parties have made a reference for adjudication of certain disputes arising out of a purchase order dated 10.08.2005 to Mr. Justice Chittatosh Mookerjee, Former Chief Justice of Calcutta High Court. They submit that the Arbitrator has already entered upon the reference and that evidence is now being adduced by the parties in support of their respective cases.

Mr. P.S. Patwalia, learned senior counsel for the petitioner submits that the arbitral award may put the entire controversy to rest and that the petitioners are ready and willing to deposit the cheque amounts with the Arbitrator to prove their bonafides. He prays that pending final disposal of the arbitration proceedings the proceedings before the trial court in the complaints filed by the respondent-company could be stayed by this Court.

Mr. V. Giri, learned counsel for the respondent-company opposes that prayer and submits that since the cheques in question do not form the subject matter of the arbitration proceedings, there is

no reason why the proceedings in criminal complaints should be stayed.

The offer made by the petitioners appears to be reasonable to us. Since the reference made to the arbitrator is not before us, it is not possible to say with certainty whether the arbitral award will put an end to all the outstanding disputes including the recovery of the amount covered by the two cheques. We accordingly direct the petitioner to deposit the amount covered by the two cheques with the learned Arbitrator within six weeks from today. The proceedings before the criminal court in the complaints filed by the respondent-company shall in the meantime go on but no final judgment in the said complaints shall be delivered by the Magistrate concerned, pending the publication of the award by the Arbitrator. We further direct that the petitioners shall remain exempted from personal appearance in the criminal proceedings subject to the condition that they are represented on all dates of hearing by a counsel duly instructed to conduct the case on their behalf.

The complainant shall be free to approach the Arbitrator for release of the amount deposited by the petitioners in terms of this order in which event the Arbitrator shall be free to pass an appropriate order after hearing the petitioners on such terms as to security as he may deem fit.

Needless to say that the Magistrate shall be free to pronounce the order in the complaints upon the conclusion of the proceedings and publication of the arbitral award. The Magistrate shall, however, remain uninfluenced by any observations made by the High Court in the order impugned before us. These special leave petitions are with the above directions disposed of. No costs.

(Shashi Sareen)
Court Master

(Veena Khera)

Court Master