

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CRIMINAL PETITION No.8361 OF 2015

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ORDER:

The criminal petition is filed for quashing the proceedings against the petitioner/accused in CC.No.359 of 2015 on the file of the Court of the IV Special Magistrate at Visakhapatnam, filed for the offences punishable under Section 138 R/W Section 142 of the Negotiable Instruments Act.

Learned counsel for the petitioner submits that the petitioner has lost the cheque and by misusing the said cheque, the 2nd respondent/complainant initiated proceedings under Negotiable Instruments Act. When the cheque is lost and petitioner has also given complaint in respect of the same, criminal proceedings are not maintainable.

When once the cheque is signed, presumption arises and it is for the petitioner/accused to disprove the same during the course of trial and it is for the complainant to prove whether there exists any legally enforceable debt and these are all disputed questions of fact which cannot be decided in this criminal petition. More so, the learned counsel for the petitioner/accused did not bring to my notice any legal bar for maintaining the criminal proceedings under Section 138 of the Negotiable Instruments Act.

Accordingly, the criminal petition is dismissed. However, it is open for the petitioner to raise all the issues during the course of trial.

As a sequel thereto, miscellaneous petitions, if any, pending in the Criminal petition, shall stand closed.

A.RAJASHEKER REDDY, J

29.09.2015

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