

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.3507 of 2015

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/accused, against C.C.No.180 of 2014 on the file of the learned IV Addl. Chief Metropolitan Magistrate, Visakhapatnam, which is outcome of private complaint filed by the 2nd respondent under Sections 138 and 142 of Negotiable Instruments Act(for short, 'the N.I.Act') that was taken cognizance, to quash the proceedings in said case.

2. Heard the learned counsel for the petitioner so also the learned Public Prosecutor representing State-1st respondent before ordering notice to the 2nd respondent/de facto-complainant and perused the material on record.

3. Undisputedly, Section 251 of Cr.P.C. examination not completed by the date the application filed by the accused before the trial Court impugning the jurisdiction of the trial Court to entertain. The case though filed earlier in the Court of Judicial Magistrate of First Class, Chodavaram, on transfer it is pending before IV Addl.Chief Metropolitan Magistrate, visakhapatnam. The cheque was issued at Visakhapatnam having drawn from the account of the accused on 7.04.2014 of Indusland Bank, Visakhapatnam branch. Even the principle laid down in **Dasarath Roopsingh Rathode Vs. State of Maharashtra**^[1] speaks that Visakhapatnam got jurisdiction, leave about clarification therein of this matters where there is no jurisdiction by virtue of the expression of such matters which reached the stage of 145(2) of the N.I.Act, the Court confers jurisdiction within its power under Section 406 of Cr.P.C. and Article 136 of the Constitution of India. It is only for those matters not reached the stage of Section 145(2) of the N.I.Act, it is observed for its return to cause represent in the Court having jurisdiction. The contention of the petitioner is pursuant to which he filed a memo that was negated by the learned

Magistrate. In fact, when there is jurisdiction from that expression as cheque was issued from the account of the accused from Visakhapatnam, the application of the expression does not arise. Apart from the place of the Court where cheque dishonoured also confers jurisdiction by the Ordinance by Amendment Act 6 of 2015 which came into force at once (15th June,2015).

4. Having regard to the above, the Criminal Petition is dismissed for no grounds to interfere with the impugned result of the order of the learned Magistrate though a perusal of the impugned order of the learned Magistrate observations are not correct on the scope of the law. It is needless to say if the petitioner files any application under Section 205 Cr.P.C. to represent through special vakalath holder, the learned Magistrate shall hear and permit with necessary conditions.

5. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date: 22.06.2015

Vvr

[\[1\]](#) 2014(2) ALD 190(SC)