

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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CRIMINAL PETITION No.2633 of 2015

ORDER:

This petition is laid under Section 482 of the Code of Criminal Procedure, 1973, requesting to quash the proceedings in C.C.No.423 of 2014 on the file of Additional Junior Civil Judge, Bapatla, Guntur District.

2. The facts in brief are that the 2nd respondent lodged a complaint stating therein that she has acquaintance with the petitioner/accused through her husband since about 10 years prior to lodging the complaint and an amount of Rs.4,00,000/- was given as hand loan with interest at 24% per annum on 12.02.2012 for family necessities, and, in turn, the petitioner/ accused executed a promissory note on the same day in her favour and when insisted for repayment of the loan amount and despite repeated demands, finally issued a cheque bearing No.080259 dated 14.10.2013 for a sum of Rs.3,00,000/- drawn on AXIS Bank, Bapatla Branch, Guntur District for discharge of liability and promising to pay the remaining Rs.1,00,000/- within six months from 14.10.2013.

3. Sri K.Gani Reddy, learned counsel for the petitioner/accused submits that the petitioner has obtained loan of Rs.50,000/- from one Annam Srinivas Rao in the year 2012, and in that connection, Annam Srinivas Rao obtained a blank cheque bearing No.080245 and a promissory note, and subsequently, said Annam Srinivas Rao filled in column by mentioning Rs.3,00,000/- and presented it in his bank and got it bounced, and, thereafter, he got issued a legal notice for payment of Rs.3,00,000/-, and when the petitioner questioned his highhandedness, he has tendered unconditional apology and requested him to clear the amount, and subsequently, the said Annam Srinivas Rao returned the bounced cheque to the petitioner, but again at request of Annam Srinivas Rao, he gave another blank cheque bearing No.080259 drawn on AXIS Bank, Bapatla Branch, Guntur District, and a promissory note as security. It is his further submission that the petitioner had cleared the debt at the fag-end of 2013 and when he demanded to return the original blank cheque and promissory note, though the said Srinivas Rao promised to return the same stating that it was misplaced, got issued a notice dated 06.08.2014, and it

is according to the petitioner, he has never seen the complainant earlier and the chequ and promissory note were fabricated.

4. It is no doubt true, the photostat copies of the cheque and promissory note are filed at page No.12 of material papers, but without entering into the arena of merits at this stage, since the cheque contains the signature of the petitioner and so also on the promissory note which is not in dispute. The blank cheque and blank promissory note were signed at the request of the said Annam Srinivas Rao, which are said to have been placed by the 2nd respondent, still, the circumstance that despite returning earlier cheque as per the version of the petitioner, he unlikely again would give blank cheque to the said Annam Srinivas Rao without exercising proper discussion. However, these aspects as to forgery and fabrication of cheque and promissory note, as alleged by the petitioner herein, have to be gone into which requires finding, on completion of full fledged trial. When viewed from that angle, it is not a fit case to quash the proceedings in the said calender case.

5. Therefore, the criminal petition is dismissed. However, it is observed that the leaned Magistrate should dispose of the calender case uninfluenced by the observations made in this case.

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

A. SHANKAR NARAYANA, J

08th April, 2015

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