

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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Criminal Petition Nos.2558 and 2566 of 2015

Common Order:

These two Criminal Petitions are filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C') seeking to quash the proceedings in STC Nos.49 of 2014 and 104 of 2013 on the file of the Special Magistrate of First Class, Madanapalle, Chittoor District, respectively.

2. Heard Sri Sujith Jaiswal, learned counsel for the petitioner, and the learned Assistant Public Prosecutor for the State.

3. It is the submission of the learned counsel for the petitioner that the cheques were issued by the petitioner towards collateral security for the chit fund business conducted by the second respondent and the same were now utilized for initiating prosecution under Section 138 of the Negotiable Instruments Act, 1881, projecting, as if the amounts were borrowed as hand loan and failed to discharge the loans. Learned counsel for the petitioner submits that it would be too difficult to visualize that the second respondent would lend the amount covered by the second cheque on one and the same day in the same month and that itself would falsify the complaint averments.

4. Whether the cheques were issued towards collateral security as contended by the petitioner or whether the cheques were issued for discharge of the loan amounts as contended by the second respondent can only be gone into after full fledged trial takes place and, therefore, not fit cases to quash the proceedings under Section 482 Cr.P.C. and, consequently, both the Criminal Petitions are dismissed.

5. Learned counsel for the petitioner seeks a direction to dispense with the presence of the petitioner since he has to all the way travel from Tirupati to Madanapalle on each date of adjournment and it would be too difficult for him for the reason as he was working in Judicial Department at Tirupati. However, even that request is not acceded to, for the reason it is open to the petitioner, in case he feels inconvenience, to invoke the provisions of Section 205 Cr.P.C.

6. As a sequel thereto, the miscellaneous applications, if any, pending in these Criminal Petitions shall stand closed.

A. SHANKAR NARAYANA, J

Date: 06.04.2015

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