

HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRL.P.No.364 of 2011

ORDER:

This Criminal Petition is filed by the Petitioner-accused to quash the proceedings initiated against him in C.C.No.810 of 2009 on the file of the Additional Judicial Magistrate of First Class, Kurnool, registered for the offence punishable under Section 138 of the Negotiable Instruments Act.

Brief facts of the case are that the revision petitioner-accused issued two post dated cheques bearing Nos.304002 and 304003 for an amount of Rs.1,00,000/- each payable on 18.05.2007, towards payment of the amount due to the 2nd respondent-complainant and when the said cheque were presented on 24.09.2007 in Andhra Bank, Budhawarpet Branch, Kurnool, for realization, the same were bounced with an endorsement 'funds insufficient. Thereafter, after following the procedure provided for under Sections 138 and 142 of the Negotiable Instruments Act, the 2nd respondent-complainant filed the private complaint and the same was taken on file by the trial Court.

Heard the learned Counsel appearing for the petitioner and the learned Public Prosecutor, representing the State and also the learned Counsel for the 2nd respondent.

The allegations in the complaint do disclose the offence punishable under Section 138 of the Negotiable

Instruments Act. The contention of the learned Counsel for the petitioner is that cognizance has been taken on the complaint filed by the 2nd respondent herein without recording the sworn statement as contemplated under Section 200 Cr.P.C. His further contention is that the petitioner is innocent of the offence and he has been falsely implicated in the case. All these pleas fall within the purview of disputed questions of fact and they cannot be decided in this petition. Hence, the relief for quashing the proceedings is rejected.

Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

06-07-2015

Gsn