

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.1125 of 2015

ORDER:

Heard both sides.

The Petitioner/Accused seeks quashment of the Proceedings in C.C.No.190 of 2014 on the file of VIII Special Magistrate Court, Erramanzil, Hyderabad.

The second respondent/complainant filed a case under Section 138 of Negotiable Instrument Act against the petitioner/accused on the allegation that in connection with loan transaction, the complainant executed a loan facility to the petitioner/accused for a sum of Rs.16,90,000/- for petitioner's business purpose. The accused failed to repay the amount. Subsequently, he acknowledged the receipt of the amount in an undertaking on 31.08.2013 and promised to pay the amount by 15.09.2013. Subsequently, the petitioner/accused issued a cheque for Rs.5,00,000/- towards part payment. He also issued another cheque for Rs.9,90,000/- on 03.03.2014 and the complainant deposited the first cheque for Rs.5,00,000/- with his bank, but the same was dishonoured due to the fact that the "Drawers signature differs". In spite of intimation to the petitioner, he did not pay the amount. Again, on the request of the petitioner, the complainant deposited the second cheque with his bank, but the same was also returned with an endorsement that "Funds Insufficient". The submission of learned counsel for petitioner/accused is that there was no creditor and debtor relationship between the parties and the petitioner has not issued the cheques for due discharge of any legally enforceable debt and originally the son of second respondent/complainant and the petitioner were partners in a business under the name and style of "Apex Technology", which was an out sourcing agency and in the said firm,

the petitioner entered as a 3rd party technical supporter for running the firm and in that connection, the son of the second respondent got deposited amounts in the petitioner's account on different dates towards his share of investment. The learned counsel further submitted that subsequently the business went on losses and the son of the second respondent/complainant without taking moral obligation for the losses, intentionally raised some disputes with the petitioner and made use of the blank cheques, which were available in the office. The learned counsel, thus, submitted that the petitioner never issued cheques for due discharge of any legally enforceable debt and therefore continuation of proceedings against him amounts to abuse of process of law and he thus sought for quashment of the proceedings.

As can be seen from the line of defence, the same can be appreciated only after full fledged trial but not in a petition under Section 482 Cr.P.C. Therefore, the petitioner/accused is at liberty to put forth his defence before the trial court during trial.

With this observation, this Criminal Petition is disposed of.

As a sequel, miscellaneous petitions, if any, pending shall stand closed.

U.DURGA PRASAD RAO,J

26-02-2015
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Crl.P. No. 1125 of 2015

Dt. 26.02.2015

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