

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5609 of 2013

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ORDER :

This criminal petition is filed by the petitioner/accused under Section 482 Cr.P.C seeking to quash the proceedings in C.C.No.245 of 2012 on the file of Chief Metropolitan Magistrate, Vijayawada.

2. Heard learned counsel for the petitioner as well as learned counsel for the 2nd respondent-*de facto* complainant and perused the material on record.

3. The signature of the accused on the cheque is not in dispute, but for the contention is a blank cheque has been obtained. The complaint averments clearly speaks that the amount is borrowed for legally enforceable debt and the cheque was allegedly issued though from State Bank of India, Arundalpet Branch, Guntur District, the same was presented at Karur Vysya Bank Ltd., Bandar Road Branch, Vijayawada where the complainant has his account and it was dishonoured and returned with an endorsement 'Insufficient Funds' as per Bank Memo, dated 16.01.2012. Pursuant to which, even legal notice was issued under Ex.A-4 that was shown delivered under Ex.A.7. According to the complainant, there is no reply from the accused.

4. Two contentions are raised by counsel for the accused 1) a blank cheque was issued not for any legally enforceable debt and 2) want of jurisdiction. It is contended that as cheque was returned from the account of the accused from Guntur, whereas the complainant presented the said cheque at Karur Vysya Bank Ltd., Bandar Road, Branch, Vijayawada, mere presentation of the cheque at Karur Vysya Bank Ltd, Vijayawada, where the complainant has his account does not confer jurisdiction. As answer to the 2nd contention, though the said contention is prevailing from the expression of Hon'ble Apex Court in ***Dashrath Rupsingh Rathod V. State of***

Maharashtra it was not the law prior to that, right from the expression of the Hon'ble Apex Court in **K.Bhaskaran Vs. Sankaran**. Apart from it, the law came into force with retrospective effect amending the law in tune to the expression in **Bhaskaran (supra)** of the place where the cheque presented for collection also confers jurisdiction though it was originally an ordinance No.6 of 2015, dated 15.06.2015, later extended and is in force as on date and thus, the contention of no jurisdiction would not survive. Any defence of the cheque issued is not for a legally enforceable debt or liability is left open to agitate during trial, for nothing to consider herein.

5. Having regard to the above, such defences, be left open and without prejudice, if any available to raise during trial, the criminal petition is disposed of for no grounds to quash the Calendar Case at this stage.

6. Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:09.11.2015

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