

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P.No.5388 of 2015

ORDER :

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/accused to quash the proceedings in C.C.No.217 of 2014 on the file of the VIII Special Magistrate Court, Erramanzil, Hyderabad, (now transferred to XI Additional Chief Metropolitan Magistrate, Secunderabad) taken cognizance for the offence under Section 138 of the Negotiable Instruments Act(for short, 'the N.I.At').

2. Heard the learned counsel for the petitioner so also the learned Public Prosecutor representing State-2nd respondent before admission and before notice to the 1st respondent-defacto-complainant and perused the material on record.

3. The case appears is at the stage of Section 145(1) of the N.I.Act for the P.W.1 chief examination affidavit filed to be taken on oath and documents to be exhibited and to be cross-examined from the submission of the counsel. The learned counsel for the petitioner/accused herein mainly contends that for the so called cheque there is no legally enforceable debt and there is a variance to the cheque value of Rs.3,00,000/- and the alleged amount paid by way of cheque by the wife of the complainant/1st respondent of Rs.2,85,000/- and that in the statement of the complainant herein by name K.Santosh Kumar, in Cr.No.46 of 2014, he stated that believing the version of Madhumangam, he arranged the amount from his relatives and said Madhumangam stood as surety to said amount and that he paid the money by way of cheque to the petitioner. From the said version of above crime, the learned counsel for the petitioner/accused herein wants to say that the alleged cheque if at all given for security besides there is no legally enforceable debt. It is premature for this Court at this stage to rely on the statement, that too,

when it requires to be confronted to the complainant as previous statement under Section 145 and 155(3) of the Indian Evidence Act during trial. Having regard to the above, without prejudice to such contention of the petitioner/accused and the material falls short for this Court to admit the application to quash the proceedings in the above C.C.No.217 of 2014,

4. With the above observation, the Criminal Petition is disposed of. Miscellaneous applications, if any, pending in this Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 03.08.2015

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