

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.4177 of 2015

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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.179 of 2014 on the file of the Judicial Magistrate of First class, Special Mobile Court, Eluru, West Godavari District, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. Heard the learned counsel for the petitioner as well as the 2nd respondent-State represented by the Public Prosecutor before admission and before ordering any notice to the 1st respondent and perused the material on record.

3. It is the submission of the learned counsel for petitioner that the cheque issued, as stated in para No.3 of the complaint, was drawn on ICICI Bank, Vijaywada. As per the expression of the Apex Court in **Dashrath Rupsingh Rathod v. State of Maharashtra and another**^[1], only the place where the very cheque was drawn has got jurisdiction. Hence claims that taking of cognizance by the learned Magistrate at Eluru and continuing the proceedings are liable to be quashed.

4. Needless to say, in the very expression there are guidelines and directions that expressed, where

proceedings reached the stage under Section 145(2) of the Act, by virtue of the very order conferring jurisdiction to continue and those matters not reached such stage, the learned Magistrate have to return the complaints.

5. Having regard to the above, it is left open to the petitioner to file a memo before the learned Magistrate to decide whether to return the complaint to present before any other Court, following the guidelines of the above expression or to continue before same Court. Apart from the place of the Court where cheque dishonoured also confers jurisdiction by the Ordinance by Amendment Act 6 of 2015 which came into force at once (15th June, 2015). Needless to say, if the petitioner files any complaint to recall the warrant under Section 70(2) Cr.P.C., the learned Magistrate shall recall the warrant subject to execution of bond under sections 88/89 Cr.P.C.; if not already executed such bond for future due appearance.

6. Subject to the above, the criminal petition is disposed of at the admission stage.

7. Miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

10th June 2015.

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[\[1\]](#) (2014) 9 SCC 129