

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

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Criminal Petition No. 3640 of 2015

Order:

The instant petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused requesting the Court to quash the proceedings in Calendar Case No.819 of 2014 on the file of XXV Special Magistrate Court, Hyderabad, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act').

2. The facts would reveal that the second respondent – *de facto* complainant when presented the cheque issued by the petitioner for encashment with his bankers on 23.09.2014 the same was dishonoured on 23.09.2014 with a reason "Payment stopped by the drawer" and, thus, the cause of action started in the matter and statutory notice under Section 138(b) of the NI Act ought to have been issued by the second respondent within a period of 15 days from 23.09.2014. It is also stated that the second respondent said to have presented the said cheque again on subsequent occasion and the same was dishonoured on 08.10.2014 with the very same reason.

3. It is the submission of the learned counsel that subsequent presentation of the cheque is totally invalid and no prosecution is maintainable on such subsequent dishonour of the cheque and that the notice, after the dishonour of the cheque on 23.09.2014, has to be issued by the second respondent within a mandatory period of 15 days from 23.09.2014, but no notice is issued within the said mandatory period, hence, it is nothing but abuse of process of law and, therefore, sought to quash the proceedings.

4. Perused the material, which is the complaint copy. The stand taken by the petitioner herein can be agitated before the learned Magistrate since the relevant

material require examination by the learned Magistrate. Hence, the abuse of process of law cannot be inferred at this stage.

5. With the above observation, the Criminal Petition is disposed of.

6. As a sequel thereto, the miscellaneous applications, if any, pending in the Criminal Petition shall stand closed.

A. SHANKAR NARAYANA, J

Date: 29.04.2015

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