

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.16801 OF 2016

ORDER:

This petition is filed under Section 482 of Cr.P.C. to direct the Special Magistrate, Hayatnagar Ranga Reddy District to split C.C.No.1111 of 2015 on its file into two parts, one for Rs.2,00,000/- and the other one for Rs.4,00,000/- and proceed with the trial for Rs.2,00,000/- and pronounce judgment.

It is the case of the petitioner from the beginning that the petitioner filed a complaint under Section 200 of Cr.P.C. for the offence punishable under Sections 138 and 142 of the Negotiable Instruments Act, alleging that the respondent No.3 had borrowed Rs.6,00,000/- and issued a cheque towards discharge of part of the legally enforceable debt and on its presentation for collection, it was returned with endorsement "Funds Insufficient" and thereafter, he issued a legal notice dated 4-8-2016 calling upon the petitioner to pay the amount covered by the dishonoured cheques within 15 days but failed to comply the legitimate demand of respondent, hence, the complaint.

It is the case of the petitioner that 3rd respondent filed an Insolvency Petition to adjudge him as insolvent annexing list to schedule of creditors where the petitioner's liability was shown as Rs.2,00,000/- but the Insolvency Petition was dismissed for default subsequently, taking advantage of dismissal, the Present Petition is

filed to split the case into two one for Rs.2,00,000/- and another for Rs.4,00,000/- in view of admission in the Insolvency Petition.

The petitioner allegedly advanced Rs.6,00,000/- to the 3rd respondent and the 3rd respondent issued cheque for Rs.6,00,000/- towards discharge of the part of the legally enforceable debt. Thus, the cause of action is failure on the part of 3rd respondent to pay the amount covered by cheque after issuance of notice under Section 138-B of the Negotiable Instruments Act.

Thus, the cause of action for both the claims is one and the same and the same cannot be split into two, as such it is not a ground to allow the petition. Hence, the learned Special Magistrate, Hayatnagar, Ranga Reddy District is directed to decide the matter at the earliest.

With the above direction, this Criminal Petition is dismissed.

As a sequel to the disposal of this petition, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE M.SATYANARAYANA MURTHY

Dated 19-12-2016.

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 19-12-2016.

Dvs