

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.1793 OF 2016

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ORDER:

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This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C.) to quash the proceedings in C.C.No.756 of 2015 on the file of the I Additional Chief Metropolitan Magistrate at Vijayawada, arising out of offence under Section 138 of the Negotiable Instruments Act.

Heard and perused the material available on record.

Learned counsel for the petitioners submits that even according to the complaint, it is alleged that the petitioners issued the cheque after *status quo* order passed by the Debts Recovery Tribunal. He further submits that no prudent man will issue cheque in favour of other person when there is a favourable order in his favour and as such, he prays this Court to quash the proceedings against the petitioners.

This Court is of the view that the contentions raised by the learned counsel for the petitioners have to be appreciated by the trial Court and that the petitioners are at liberty to rebut any presumption arising out of an offence under Section 138 of the Negotiable Instruments Act. The truth or otherwise of the allegations made against the petitioners can be decided only after due trial. Hence, this Court is not inclined to interfere with the proceedings against the petitioners.

Considering the facts and circumstances of the case, as the question of identity of the petitioners does not arise, the presence of the petitioners before the trial Court is dispensed with except on the dates when the trial Court insists for their appearance. The petitioners are directed to be represented by a counsel on all hearing dates.

The Criminal Petition is accordingly disposed of. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE RAJA ELANGO

15.02.2016

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