

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRL. P. Nos.16246, 16247, 16251, 16252 & 16301 OF 2016

COMMON ORDER:

These criminal petitions, under Section 482 of Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), are filed to keep pending the proceedings in CC Nos.602, 607, 628, 608 and 606 of 2015 registered against the petitioners for the offence punishable under Sections 138 and 142 of Negotiable Instrument Act, 1881, on the file of II Additional Judicial Magistrate of First Class, Bhimavaram, East Godavari District, till completion of auction proceedings.

The petitioner, though raised several contentions, during argument, confined to the following contentions.

1. The first respondent initiated proceedings before the Debt Recovery Tribunal to obtain recovery certificate for recovery of loan dues.
2. The first respondent also initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'SARFAESI Act') and attached the property worth Rs.13 Crores, for realization of debt Rs.7crores due to it and obtained an order from the District Magistrate on 24.08.2016 to attach the entire property.
3. The petitioner is ready to settle the matter either before the Lok Adalath or before any other competent authority as an alternative settlement of dispute.

In view of the submission made by the counsel for the petitioner, during hearing, the other grounds raised in the petition need not be examined as they are irrelevant.

Pendency of the proceedings before the Debt Recovery Tribunal to obtain recovery certificate for recovery of huge amount due to the first respondent is not a ground to keep pending the proceedings in the aforementioned cases, since the relief claimed in the petition is a strange. If for any reason, the petitioner aggrieved by any order or any proceedings in the aforementioned cases, they are entitled to challenge the same before this Court under Section 482 Cr.P.C., if there is no alternative remedy available under the Code.

But the petitioners sought for a strange direction to the Magistrate to keep C.C. Nos. 602, 607, 628, 608 and 606 of 2015 pending on its file till completion of auction proceedings and in any way granting such relief in violation of fundamental rights of speedy trial guaranteed under the Constitution of India. Apart from that, there is no connection between proceedings before DRT and proceedings before the Magistrate. Calendar cases are only to impose sentence for commission of an offence, whereas proceedings before the DRT are for recovery of debt.

In the present case grant of stay of C.C. Nos. 602, 607, 628, 608 and 606 of 2015 is impermissible under law and none of the provisions under the Code permits to grant stay of proceedings before the court by invoking jurisdiction under Section 482 Cr.P.C. unless such proceedings is an abuse of process of the court or the allegations made in the complaint would not constitute an offence on face value of it, as laid down by the Apex court in **STATE OF HARYANA vs. BHAJAN LAL**¹.

¹ (1992) SUPP (1) SCC 335

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Therefore, the relief claimed by the petitioners in the present petition cannot be granted while exercising jurisdiction under Section 482 Cr.P.C. and mere pendency of C.C. Nos. 602, 607, 628, 608 and 606 of 2015, itself would not amount to an abuse of process of court. Therefore, I am afraid to exercise inherent jurisdiction under Section 482 Cr.P.C. to grant such prayer in the present petition and I find no ground to grant relief in the petition filed under Section 482 Cr.P.C. and these petitions are liable to be dismissed at the stage of admission.

In the result, these criminal petitions are dismissed at the stage of admission.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 25.11.2016
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