

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.14261 OF 2016

ORDER:

This petition is filed under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.209 of 2015 on the file of II Special Magistrate, Visakhapatnam on the ground that the court before which complaint is presented i.e., II Additional Chief Metropolitan Magistrate, Visakhapatnam lacks jurisdiction.

It is the contention of the petitioner that the learned Magistrate who entertains the complaint initially i.e., II Additional Metropolitan Magistrate, Visakhapatnam has no jurisdiction, however, it is made over to II Special Magistrate, Visakhapatnam for trial.

When a petition is filed by the petitioner, to pass appropriate order as to the jurisdiction to entertain the present petition in CrI.M.P.No.1704 of 2016 in C.C.No.209 of 2015, the special Magistrate did not record any finding on the ground that since the court was constituted for disposal of the cases under Section 138 of the Negotiable Instruments Act and the complaint was instituted before the II Additional Chief Metropolitan Magistrate, Visakhapatnam and later it was withdrawn and transferred to the II Special Magistrate, Visakhapatnam, he has no jurisdiction to pass any order deciding the jurisdiction and rejected the petition.

But the reason assigned by the II Special Magistrate, Visakhapatnam is not convincing and it is not an excuse to deny the relief. When power is conferred on the Magistrate to try the case, it

includes power to decide the territorial jurisdiction and all issues relating to complaint and the Magistrate cannot reject the application and as such, the order passed by the II Special Magistrate is unsustainable under law. Hence, instead of quashing the proceedings in C.C.No.209 of 2015 for the offences punishable under Sections 138 and 142 of the Negotiable Instruments Act, I deem it appropriate to set aside the order dated 31-8-2016 passed by the II Special Magistrate, Visakhapatnam in CrI.M.P.No.1704 of 2016 in C.C.No.209 of 2015 and the learned II Special Magistrate is directed to decide the territorial jurisdiction of the court within a month from the date of receipt of a copy of this order and if the Special Magistrate finds that it lacks no jurisdiction, pass appropriate orders for return of complaint.

With the above direction, this Criminal Petition is disposed of.

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

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JUSTICE M.SATYANARAYANA MURTHY

Dated 11-11-2016.

Dvs.

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY



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Dated 11-11-2016.

Dvs