

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15920 of 2016

ORDER:

This Criminal Petition is filed by the petitioner/accused, under Section 482 of Cr.P.C., to quash the proceedings in C.C.No.261 of 2015 on the file of the III Special Magistrate, Hasthinapuram at L.B.Nagar, Ranga Reddy District, registered for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. The petitioner raised several contentions in the grounds of this petition for quashing the proceedings. However, during hearing, learned counsel for the petitioner confined his argument to the ground that the signature on the cheque and postal acknowledgement were forged by the complainant and filed the present complaint under Section 138 of the Negotiable Instruments Act, 1881.

3. Learned counsel for the petitioner, while drawing attention of this Court to the signatures on the cheque which was dishonoured and the postal acknowledgement, contended that the signatures appearing on those two documents are forged and the petitioner filed an application under Section 45 of the Indian Evidence Act to refer the disputed signatures on the cheque and the postal acknowledgement along with the admitted signatures of the petitioner to an expert for his opinion, which would be helpful to his case and the Court to decide

the matter effectively, but the Court below dismissed the petition assigning its own reasons and aggrieved by the same, the petitioner preferred a revision in Crl.R.P.No.108 of 2016 before the Metropolitan Sessions Judge, Cyberabad and the same is pending before the said Court.

4. The main dispute is regarding the genuineness of the signatures on the cheque and the postal acknowledgement. The settled legal position is that while exercising jurisdiction under Section 482 of Cr.P.C., this Court cannot decide the disputed questions of fact. Since the genuineness or otherwise of the signature on the cheque and the postal acknowledgement can only be decided by adducing evidence, the same cannot be decided by this Court at this stage in a petition under Section 482 of Cr.P.C.

5. As held by the Apex Court in *State of Haryana Vs. Bhajan Lal*¹, unless the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the accused, this Court cannot exercise jurisdiction under Section 482 of Cr.P.C to quash the proceeding, by applying the same principle to the present facts, I find no ground and the petition is liable for dismissal.

¹ 1992 Supp (1) SCC 335

6. Therefore, I find no grounds to quash the proceedings against the petitioner in C.C.No.261 of 2015 on the file of the III Special Magistrate, Hasthinapuram at L.B.Nagar, Ranga Reddy District. The Criminal Petition is *de void* of merit and is liable to be dismissed.

7. In the result, the Criminal Petition is dismissed at the stage of admission, leaving it open to the petitioner to raise the contentions raised in this Criminal Petition before the Court below during trial. Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

11th November, 2016
Bvv

M. Satyanarayana Murthy, J

