

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.7626 of 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.44 of 2016 on the file of I Additional Chief Metropolitan Magistrate, Vijayawada, for the offence punishable under Section 138 of Negotiable Instruments Act.

The sole ground urged in the petition and so also during argument by Sri Gopala Krishna Kalanidhi, learned counsel for the petitioner, is that the petitioner availed loan long back from Coastal Local Area Bank Limited and submitted certain documents and cheque for approval of loan, but the respondent No.1 – Yanaganti Bala Krishna, who is working as an advocate clerk of Yalamanchila Rama Krishna, who is the standing counsel of Coastal Local Area Bank Limited, taken advantage of documents of the petitioner which were in the custody Bank's Standing Counsel and tampered the cheque by using latest technology. Learned counsel for the petitioner further contended that the petitioner has actually taken an amount of Rs.10,000/- from the respondent No.1/complainant to meet hospital bill of Nagarjuna Super Specialty Hospital, Vijayawada, but the respondent No.1 tampered the cheque by using chemicals and after compliance of necessary formalities filed the compliant before the concerned Court.

The question of such removal of letters by using chemicals etc. by the respondent No.1 cannot be decided while exercising power under Section 482 of Cr.P.C. Such disputed question of fact

cannot be decided in a petition filed under Section 482 Cr.P.C. and this Court is not supposed to record any finding whether the respondent No.1/complainant removed letters on cheque by using latest technology.

It is a settled law that this Court can exercise jurisdiction under Section 482 Cr.P.C. only when the allegations made in the complaint does not constitute any offence, but here the allegations made in the complaint constitute an offence punishable under Section 138 of Negotiable Instruments Act. However, during hearing learned counsel for the petitioner would submit that in case, during the trial, the Court came to conclusion that the respondent No.1 by using latest technology removed the letters on cheque, the petitioner is entitled for acquittal, however some damage would be caused to his reputation besides loss of working days and expenditure for the present litigation. But such question is not relevant for deciding the present petition. In case the Court comes to a conclusion that the petitioner is entitled for acquittal and if he is aggrieved by prosecution, if malicious, certainly he is entitled to proceed against the complainant/respondent No.1 under law.

I do not find any ground to quash the proceedings as sought for by the petitioner. Hence, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

18.11.2016
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