

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.10833 of 2016

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ORDER:

This petition under Section 482 Cr.P.C. is filed by the petitioners/A.1 to A.5 seeking to quash the proceedings in C.C.No.628 of 2015 on the file of II Additional Judicial Magistrate of First Class, Bhimavaram, East Godavari District, registered for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. Heard learned counsel for the petitioners/A.1 to A.5 and learned Additional Public Prosecutor representing the State.

3. It appears from the complaint that the 1st respondent/ *de facto* complainant made allegations against the petitioners/A.1 to A.5. It further appears that on the basis of the said complaint, police registered a case, which culminated into filing of a charge sheet. The truth or otherwise of the allegations can only be decided during the course of trial. This Court is not supposed to make a roving enquiry into the allegations made in the charge sheet. I absolutely see no valid ground to quash the charge sheet. At this stage, learned counsel for the petitioners submits that the Court below issued warrants to petitioner Nos.3 to 5/A.3 to A.5 for their absence. In view of the same, petitioner Nos.3 to 5 are directed to appear before the Court below and file a petition Section 70 (2) Cr.P.C., to recall the warrants, thereafter, the learned Magistrate is directed to dispose of the application on the same day.

4. From a perusal of the record, it cannot be said that there is no material to proceed against the petitioners/A. 1 to A.5.

5. In that view of the matter, the Criminal Petition is disposed of

directing the learned Magistrate to proceed with the trial in C.C.No.628 of 2015 without insisting for the presence of petitioner Nos.2 to 5/A.2 to A.5 on each and every adjournment, unless it feels that their presence is necessary for any specific purpose. However, petitioner No.1/Accused No.1 shall appear before the trial Court during trial.

Further more, the learned Magistrate is also directed to dispose of C.C. No.628 of 2015 on the file of II Additional Judicial Magistrate of First Class, Bhimavaram, East Godavari District, within a period of six (06) months from today.

Pending miscellaneous applications, if any, shall stand closed in consequence.

JULY 26, 2016

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M.S.K.JAISWAL, J