

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.44408 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking to declare the action of the 3rd respondent in filing charge sheet in CC No.806 of 2010 on the file of the I-Chief Metropolitan Magistrate, Vijayawada, as illegal and arbitrary and consequently set aside the same.

Heard and perused the material available on record.

The brief facts of the case are that the petitioner borrowed Rs.2,00,000/- from the de facto complainant for his business purpose and when the de facto complainant demanded for repayment of the said amount, he issued two cheques. Thereafter, the petitioner shifted his residence to another place and when the de facto complainant presented the said cheques in his bank, the same were returned for insufficient funds. Therefore, the de facto complainant lodged a complaint against the petitioner and others for the offence under Section 420 r/w.34 IPC. After completion of investigation, charge sheet was filed and the same was numbered as CC No.806 of 2016. To quash the proceedings in the CC, the present writ petition is filed.

After perusing the record, this Court expressed its opinion that this Court is not inclined to grant the relief sought for by the petitioner. At this stage, learned counsel for the petitioner submitted that the Court below issued NBW against the petitioner and that the same may be recalled.

In view of the submission made by the petitioner, this Court is inclined to pass the following order:

The petitioner is directed to approach the Court below and file an application to recall the NBWs pending against him and on such application being filed, the Court below is directed to recall the NBWs pending against the petitioner on the same day, on petitioner executing a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) with one surety for the likesum and further the petitioner is directed to attend the Court below regularly on all hearing dates.

Accordingly, the writ petition is disposed of. No order as to costs. Pending Miscellaneous Petitions, if any, shall stand closed.

December 20, 2016.
KTL

RAJA ELANGO, J

