

HONOURABLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.14579 OF 2016

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the proceedings in CrI.M.P.No.5619 of 2015 in C.C.No.489 of 2015 on the file of First Special Magistrate Court at Vijayawada receiving the document filed along with the petition.

The only grievance before this court is that respondent filed complaint under Section 138 of N.I. Act but at the fag end of the trial, the petitioner filed petition under Order 13 and 2 under Section 151 of C.P.C. to receive the document as set out in the list as evidence and the provisions of C.P.C. are not applicable to the case under N.I.Act and documents are not relevant for deciding the issue pending before the Court.

The trial court observed that mere quoting of wrong section of law does not take away the right of the parties and therefore, mere quoting of wrong provision of law is not a ground to dismiss the petition.

In fact respondent is not entitled to invoke the jurisdiction of civil court by filing a petition under Order 13 Rule 2 of C.P.C. and receiving documents under Order 13 Rule 2 is entirely different from receiving document by the Criminal Court. But that itself is not a ground. However, trial court also did not advert even Order 13 Rule 2 of C.P.C. to allow the petition on that ground, therefore, the alleged wrong quoting is not a ground.

Second ground is that the documents are relevant for deciding the issue pending before the court since the document pertaining discharge of loan of Rs.8,00,000/-which was availed and the same was repaid with the sale proceeds through Challan on 29-11-2010 with interest i.e.,Rs.8,38,243/- and the said bank has issued loan closure letter on 29-11-2010.

But relevancy of the document can be considered by the trial court as the matter is pending before it and this court while exercising powers under Section 482 Cr.P.C. cannot decide the relevancy of those documents by this court and it is not a ground to interfere with the order passed by the trial court in view of the principle laid down by the apex court in *PADAL VENKATA RAMA REDDY ALIAS RAMU v. KOVVURI SATYANARAYANA REDDY AND OTHERS*⁽¹⁾ and another judgment in *R.P.KAPUR v. STATE OF PANJAB*⁽²⁾.

Hence, this Criminal Petition is dismissed.

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

JUSTICE M.SATYANARAYANA MURTHY

Dated 18-10-2016.

Dvs.

¹ (2011) 12 SCC 437

² AIR 1960 SC 866.

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Dvs