

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION Nos.1905 AND 1919 OF 2017

COMMON ORDER:

These two petitions are filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') by the husband and wife, who are arraigned as sole accused in C.C.Nos.1097 of 2015 and 1098 of 2015 on the files of the Judicial Magistrate of First Class, Yellandu, respectively, requesting to quash the proceedings in the said calendar cases.

2. The offence punishable under Section 138 read with 142 of the Negotiable Instruments Act, 1881, is filed by the 1st respondent-*de facto* complainant against the petitioners.

3. The case of the petitioners in both these criminal petitions is that, in fact, only a sum of Rs.75,000/- was obtained towards loan and in that connection, the 1st respondent has obtained three blank cheques from the petitioners and utilized it, showing the total amount of Rs.3,41,000/-, and when the three cheques were presented, the same were returned on the ground that the account was closed and there has been issuance of notice and reply, ultimately culminating in to filing of these petitions by the 1st respondent.

4. Thus, the submission of the learned counsel is, for the amount of loan obtained by the petitioners, the 1st respondent obtained three blank cheques from them and utilized them for the purpose of

prosecuting the petitioners. But, these are all factual aspects, which cannot be decided by conducting a roving enquiry in an application under Section 482 of the Code. Proper course is only to contest the complaints before the Court below when the 1st respondent steps into box, confronting him with the defence which the petitioners have raised now. One thing appears to be that no notice was issued ever by none of the petitioners in these two cases. Therefore, the request of the petitioners cannot be acceded to.

4. Accordingly, both the criminal petitions are dismissed as no abuse of process of law can be construed.

5. The learned counsel for the petitioners would submit that the petitioner in CrI.P.No.1919 of 2017 viz., Smt. Nalli Preethi, who is arraigned as accused in C.C.No.1098 of 2015, is with six months pregnancy, besides being a public servant, and, as such, it is difficult for her to travel a distance of 400 to 500 kms. from Hyderabad and, therefore, seeks atleast to dispense with her presence for some time.

6. The aforesaid request appears to be reasonable. Hence, the presence of the petitioner in CrI.P.No.1919 of 2017 in C.C.No.1098 of 2015 is dispensed with. However, her husband, who is the petitioner in CrI.P.No.1905 of 2017 would represent her in C.C.No.1098 of 2015 before the learned Judicial Magistrate of First Class, Yellandu, through out. However, the petitioner (wife) is directed to appear for preliminary examination, examination under Section 313 Cr.P.C. and

at the time of pronouncement of the judgment in C.C.No.1098 of 2015.

7. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

March 9, 2017

Note:

Issue C.C. by 13.03.2017

(b/o)
mar

