

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.7651 of 2017

ORDER:

Heard the learned counsel for the petitioner in C.C.No.447 of 2009 pending on the file of the Addl.Judicial Magistrate of First Class, East Godavari District, which is outcome of the private complaint filed by the 1st respondent/defacto-complainant for the offence u/sec.138 of the Negotiable Instruments Act(for short, 'the Act') taken cognizance for dishonour of the cheque bearing No. 496636, dt.09.06.2009 for Rs.10,00,000/- in question and after statutory notice on the accrual of cause of action, the complainant filed the complaint and also the learned Public Prosecutor, Andhra Pradesh and perused the grounds in the quash petition.

It is the contention that there is already a civil suit pending in relation to it and the filing of the present cheque bounce case is nothing but abuse of process. The defacto-complainant obtained 8 blank signed cheques and 4 signed empty pronotes and these are the subject matter of the O.S.No.2359 of 2008 pending on the file of the VIII Addl. Senior Civil Judge, Hyderabad. This is a matter of defence for adjudication that too when the suit is decreed and the same is subject matter of appeal in A.S.No.625 of 2013. Hence there is nothing to interdict the trial of the C.C.No.447 of 2009.

All the defences are left open to the petitioner including any dispensing of presence to consider with necessary conditions by the learned Magistrate in the event of petitioner's filing Sec.205Cr.P.C. to represent through special vakalath holder but for personal appearance as and when required, if any.

Accordingly and in the result, the Criminal Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 04.09.2017
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