

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION Nos.3202 AND 3280 OF 2017

COMMON ORDER:

The present Criminal Petitions, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), are filed requesting to quash the proceedings in C.C.Nos.45 and 48 of 2017 on the file of Principal Junior Civil Judge – cum - Judicial Magistrate of First Class, Bhimavaram.

2. Petitioner – accused and respondent No.2 – complainant in both the Criminal Petitions are one and the same. The aforesaid Calendar Cases arise out of two different complaints filed by respondent No.2 against the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

3. Heard Sri V.V.L.N. Sarma, learned counsel for the petitioner, and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. The aforesaid Calendar Cases are sought to be quashed on the main ground that consolidated amount has already been paid by the petitioner, which is reflected in the statement of account of the petitioner - Maddala Sri Goutham pertaining to HDFC Bank, for discharge of the amounts due on both the cheques, which constitute subject matter of both the Calendar Cases. But, the said ground falls within the purview of disputed questions of fact, since, it has to be

decided whether the amount said to have been paid by the petitioner relates to discharge of the amount due under both the cheques and whether constitute subject matter of the two Calendar Cases, or not. Therefore, it is for the trial Court to enter into that arena and decide the matter. It is open to the learned Magistrate to look into the statement of account of the petitioner, in case, it is confronted to PW.1 and exhibited, and dispose of the Calendar Cases, in accordance with law, on merits.

5. With the above observation, the Criminal Petitions are disposed of. However, if the petitioner so chooses, he may resort to appropriate proceedings for exemption of his appearance before the Court below under the provisions of the Code which the learned Magistrate would deal with in accordance with law.

6. Miscellaneous Petitions, if any, pending in these Criminal Petitions, shall stand closed.

A. SHANKAR NARAYANA, J

April 28, 2017.
MD