

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3385 OF 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973, requesting to quash the proceedings in Calendar Case No.237 of 2017 on the file of the I Special Magistrate Court, Kukatpally at Miyapur.

2. The petitioners herein are arraigned as accused Nos.1 to 3 in the aforesaid calendar case and they alleged to have committed the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

3. Sri Y. Ashok Raj, learned counsel for the petitioners, drawn the attention to the averments made in the petition at paragraph 5, which reads thus:

Further, in the cause title of the Complaint and the material papers filed along with the complaint, it is alleged that the statutory notices have also been sent to the address at Madhapur of the Petitioner/Accused Company. As can be seen, the address of the office of the Petitioner Accused company is incomplete. However, if perused, the certificate of the postal authorities drawn from the postal website and filed by the Complainant, containing the same registered number to that of the postal receipt filed thereto, reflects that the item has been delivered at Kukatpally. Neither it is alleged by the complaint that the Petitioner company is situated at Kukatpally, nor the address where the notice is sent is at Kukatpally. Therefore, it can safely be construed prima-facie, that the notices to the petitioner Accused Company have been sent to wrong address and which is

absolutely contrary to the provisions of 138 of negotiable instruments Act.

Basing on the aforesaid facts, learned counsel for the petitioners, would submit that it is nothing but gross abuse of process of the Court in prosecuting the petitioners for the offence alleged despite there being clear material to show that the notice was addressed to Kukatpally address, though, the correct address of the petitioners is shown in the cause title of the present petition. These all are disputed facts, which can be resolved only when a full-fledged trial takes place and in a proceeding under Section 482 of the Code, it is difficult to record a definite finding.

4. Accordingly, the criminal petition is dismissed, giving liberty to the petitioners to agitate defence raised herein, before the trial Court.

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

A. SHANKAR NARAYANA, J

28th April 2017

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