

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.6095 of 2017

ORDER :

Heard the learned counsel for the petitioner/ accused in C.C.No.352 of 2011 pending on the file of the Addl. Junior Civil Judge, Cheerala, for the offence punishable u/sec.138 of the Negotiable Instruments Act(for short, 'the Act'), and also learned Public Prosecutor for the 2nd respondent-State before ordering notice to the 1st respondent/ complainant of the private complaint for cheque dishonor and perused the grounds urged in the quash petition and other material on record.

The impugned order of the learned Magistrate in CrI.M.P.No.2136 of 2017 in C.C.No.352 of 2011 dt.06.07.2017 clearly reads that the petitioner earlier filed an application u/ sec.91CrPC in CrI.M.P.No.6162 of 2013 and the said petition was not pressed subsequently on 22.09.2014 having kept for a long period while the matter was coming for arguments after closure of the evidence from 26.02.2016 and having taken time for more than seven (7) months under the guise of arguments ultimately on 06.09.2016, the present petition is filed to re-open the matter and to summon the advocates allegedly conducted compromise of the matter and the payments were made in their presence. Even according to him the payment made by Demand Draft, borne by record may be considered for deduction of the amount and any payment of cash, he could have been sought earlier and having sought earlier not pressed and having taken 7 months time, there

are no grounds to consider his request for re-opening the matter or to summon the said advocates for the purpose of adducing defence evidence, however though this Court is not chosen to interfere with the dismissal order impugned herein.

Accordingly and in the result, the Criminal Petition is disposed of. The trial Court has to decide by ascertaining from any of the advocates who are said to have been conducted compromise if at all there is any such transaction by *suo-moto* summoning any of them for examining as Court witness u/sec.165 of the Indian Evidence Act.

With these observations, the Criminal petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.



Dr. B. SIVA SANKARA RAO, J

Date: 12.10.2017
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