THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.467 OF 2017

ORDER:

The present Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') by the petitioners, who are arraigned as A.1 and A.2 in Calendar Case No.339 of 2015 on the file of the VI Special Magistrate at Hyderabad, requesting to set aside the order in Crl.M.P.No.2062 of 2016, dated 09.01.2017, whereby and whereunder, the request made under Section 311 read with 254(2) of the Cr.P.C., to reopen the defence evidence and to summon the Assistant Director, Office of the Director of Agriculture A.P., Guntur, to produce copies in Memo No.PP(3)/510/2016, dated 09.12.2016 with complete list of 195 by-products and connected records pertaining to the same including memos dated 18.10.2016, 31.10.2016 and 08.11.2016 (21.12.2016) in an offence punishable under Section 138 of the Negotiable Instruments Act, 1881 was rejected.

2. Learned Magistrate has referred to the stage of the case, in which the present application was filed in paragraph No.11 and also referred to an earlier attempt made by the petitioners for similar relief in Crl.M.P.No.2015 of 2016 under Section 311 Cr.P.C., which request was not acceded to by dismissing the said application, which attained finality as it was not questioned before the superior Court and in paragraph No.15 assigned reasons and in paragraph No.17 recorded findings and dismissed the petition.

3. Heard Sri D.Madhava Rao, learned counsel for the petitioners.

4. Since it is opined to dispose of the present petition at the admission stage, there is no necessity to order notice to the 2nd respondent. Hence service is not ordered on the second respondent.

5. Learned counsel for the petitioners, no doubt, makes an attempt to justify the petitioners' grievance and tried to distinguish the purpose for which earlier application in Crl.M.P.No.2015 of 2016 was filed with that of the present Crl.M.P.No.2062 of 2016, but certainly, it is not convincing. The purpose is one and the same in both the petitions, for which they have been filed.

6. The learned Magistrate assigned the reasons that the scope of the complaint before him was very limited as to whether the accused has issued said cheque in discharge of the liability or whether there is no liability at all between the parties as claimed is alone to be decided, cannot be faulted. Even the finding recorded by the learned Magistrate that the details of parties for summoning the memos issued by the Government have not been mentioned, which indicates that the relevancy is not shown by the petitioners. Therefore, even that finding cannot be interfered with.

7. Looking at the attitude of the petitioners herein, having become unsuccessful in earlier attempt and not questioning the order passed in Crl.M.P.No.2015 of 2016, leaving it to attain finality

and making yet another attempt at the stage when their side is required to tender arguments, is sufficient to arrive at the conclusion that there is no merit at all and that the petitioners deliberately filed this petition to further prolong the litigation before the learned Magistrate.

6. Hence, the Criminal Petition is dismissed at the admission stage.

Consequently, Miscellaneous Petitions, if any, pending in this petition shall stand closed.

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JUSTICE A.SHANKAR NARAYANA

Date:24.01.2017
INL