

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

TRANSFER CRIMINAL PETITION No.65 OF 2017

ORDER:

The present Transfer Criminal Petition, under Section 407 of the Code of Criminal Procedure, 1973, is filed requesting to transfer C.C.No.150 of 2016 from the file of II Special Metropolitan Magistrate, Cyberabad, Hastinapuram, to the file of V Additional Judicial Magistrate of First Class, Kakinada, East Godavari District.

2. The main submission of Sri P. Radha Krishna, learned counsel for the petitioner, has been that the entire transaction has taken place at Kakinada, as regards mortgage and other documents executed by the petitioner, and the petitioner has also given a blank cheque to respondent No.2 – *de facto* complainant at the time of contract, and the same was utilized and presented by respondent No.2– *de facto* complainant at M/s. A.P. Vardhaman (Mahila) Co-operative Bank Limited, Dilsukhnagar Branch, Hyderabad.

3. The question as to whether the cheque, which was presented at Hyderabad by respondent No.2 and returned through Memo, dated 06.05.2016, on the ground of 'insufficient funds', was really issued by the petitioner or obtained by respondent No.2 when loan agreement was entered into at Kakinada on 26.05.2014, is a question of fact to be gone into during trial and, in case, the Magistrate arrives at such conclusion that the blank cheque was issued by the petitioner and

utilized by respondent No.2, then it is open to the learned Magistrate to take appropriate view in regard to the jurisdictional aspect, in view of the recent amendment introduced to the Negotiable Instruments Act, 1881, but, at present, it is difficult to accede to the request of the petitioner.

4. With the above observations, the Transfer Criminal Petition is disposed of. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

March 14, 2017.

Note: Issue C.C. by tomorrow.
B/O.MD

