

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2939 OF 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') requesting to quash the proceedings in Calendar Case No.58 of 2016 on the file of the XVI Metropolitan Magistrate at Erramanzil, Hyderabad.

2. The petitioner is sole accused and he is alleged to have committed the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

3. Heard Sri Moosa Ahmed, learned counsel for the petitioner and learned Additional Public Prosecutor for the State of Telangana.

4. In view of certain circumstances, the learned counsel for the petitioner, ofcourse, pointing out an undertaking filed in the material papers, which is said to have been given by the *de facto* complainant as security admitting that he received cheques towards security in connection with selling of Kamala Talkies at Nirmal, for a total consideration of Rs.25,00,000/-. There are certain details, which the learned counsel has appraised during the course of arguments. Such undertaking is attested by the Inspector of Polilce, Nirmal Town Police Station. It is no doubt true original agreement appears to have cancelled and another agreement was entered into by the parties, but, all these facts are disputed facts, in regard to which, an enquiry has to be conducted and it is not a case where roving enquiry to be conducted in a proceedings under Section 482 of the Code. Learned

counsel would fairly submit that the petitioner was already examined under Section 239 of the Code by the Court concerned. The present petition lacks merit.

5. Accordingly, the Criminal Petition is dismissed. It is open to the petitioner to confront the *de facto* complainant with the said undertaking and other relevant material, to substantiate his stand that the cheques received by him towards security as mentioned in the undertaking at page 54 of the material papers.

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

April 11, 2017.

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A. SHANKAR NARAYANA, J

