

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.1096 OF 2017

ORDER:

The writ petition is filed seeking a writ of mandamus declaring the impugned proceedings in STC No.466 of 2015 on the file of the IV Judicial First Class Magistrate, Chittoor, Chittoor District for the offence under Section 138 of the Negotiable Instruments Act is illegal and arbitrary, and consequently to quash the proceedings in STC No.466 of 2015 on the file of the IV Judicial First Class Magistrate, Chittoor, Chittoor District.

Heard and perused the material.

Learned counsel for the petitioner submits that the second respondent is the owner and he got acquaintance with the petitioner through her husband. It is alleged in the complaint that the petitioner borrowed an amount of Rs.10,00,000/- (Rupees ten lakhs only) and the petitioner issued cheque to clear the said debt and that the said cheque was dishonoured and as such committed the offence. He further submits that the cheque, which was allegedly given by the petitioner, was taken forcibly from the petitioner by her husband and father-in-law and that they might have given the cheque to the second respondent and that the petitioner never borrowed any amount from the second respondent. Hence, he prays this Court to quash the proceedings in STC No.466 of 2015 on the file of the IV Judicial First Class Magistrate, Chittoor, Chittoor District.

This Court is of the view that the writ petition is not maintainable under Article 226 of the Constitution of India as the dispute is between two individuals and that the State is not a party. Hence, the writ petition is dismissed giving liberty to the petitioner to seek appropriate remedy under Section 482 of Code of Criminal Procedure.

The writ petition is accordingly dismissed. Consequently, miscellaneous petitions, if any shall also stand disposed of.

JUSTICE RAJA ELANGO

06.01.2017
pln

