

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.16563 OF 2016

ORDER:

Heard Sri Sreenivasa Rao Velivela, learned counsel for the petitioner - accused and Sri Venkateswarlu Chakkilam, learned counsel for respondent No.1 - complainant.

Challenging the order, dated 21.10.2016 in CrI.M.P. No.6026 of 2016 in C.C. No.2184 of 2012 on the file of Additional Judicial Magistrate of First Class, Tiruvuru, Krishna District, the present petition is filed under Section 482 of Code of Criminal Procedure 1973 (for short 'the Code').

The petitioner is sole accused in C.C. No.2184 of 2012, which was filed by respondent No.1 herein under Sections 138 and 142 of Negotiable Instruments Act, 1881. The submission of learned counsel for respondent No.1 herein is that even arguments were tendered on behalf of the complainant and matter is posted today for hearing the petitioner's side arguments.

The material on record reflects that the petitioner herein made the aforesaid CrI.M.P. No.6026 of 2016 under Section 91 of the Code to summon the Branch Manager, State Bank of India, Vissannapeta to produce account transaction in respect of Account No.30793433324 belonging to respondent No.1 herein for the period from 01.01.2011 to 15.04.2016 and the Branch Manager, Andhra Bank, Vissannapeta,

to produce account transaction in respect of Account No.13801002520056 for the aforesaid period. The learned Magistrate having considered the issue recorded a finding that on perusal of the cross-examination of respondent and other material it is apparent that the respondent has admitted that he received the amount through his account and it would not be possible to explain for which debt the amount was credited, and thereby dismissed the petition.

Be that as it may, when there are transactions other than the transaction in issue, and keeping in view, that the amounts were also deposited to the credit of the *de facto* complainant, it would be justifiable to summon the bank accounts so as to sort out whether they relate to the transaction in Calendar Case or otherwise.

In that view of the matter, the present Criminal Petition is allowed setting aside the order under challenge. But, however, it is observed that instead of summoning the Branch Managers of both the banks, the concerned officials may be summoned along with production of aforesaid account sheets relating to the period from 01.01.2011 to 15.04.2016.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the criminal petition, stand closed.

A. SHANKAR NARAYANA, J

January 19, 2017.

Mgr