

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2402 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed requesting to quash the proceedings in C.C.No.215 of 2016 on the file of Judicial Magistrate of First Class, Kurnool.

2. Petitioner is arraigned as sole accused in the aforesaid Calendar Case. He alleged to have committed the offences punishable under Section 138 of the Negotiable Instruments Act and Section 420 of the Indian Penal Code.

3. Sri M. Murali Lincoln, learned counsel for the petitioner, would plead innocence and false implication of the petitioner. His main submission is that the petitioner issued the cheque in the capacity of Principal of 'Stanley Stephen College of Engineering and Technology' towards payment of salary to respondent No.2 – *de facto* complainant. His submission is based on the decision of the Kerala High Court in **P.R. Vardanan v. Vidhayadaran (Crl.M.C.No.3941 of 2012)**. But, the said decision was rendered by a learned single Judge in the context of a situation where the Company and its Directors are involved and in the present case, it is not so. It is neither the Company nor the Directors, whose presence would occur here. The learned counsel for petitioner derives the analogy on the ground that the College is registered under Societies Registration Act. The

said aspect can be gone into by the Court below when the *de facto* complainant steps into the witness box and examines himself as a witness, including the aspects whether the cheque was issued on behalf of the College or not and what were the circumstances on account of which the salary could not be paid to the *de facto* complainant, since the offence punishable under Section 420 I.P.C. is also clutched. In that view of the matter, it is not a fit case where the abuse of process of law can be viewed, as sought to be viewed by the petitioner.

4. Hence, the Criminal Petition is dismissed leaving it open to the petitioner to agitate his defence before the Court below at an appropriate stage. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

March 24, 2017.
MD

A. SHANKAR NARAYANA, J