

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.46 of 2017

ORDER :

Heard learned counsel for the petitioner and perused the record.

2. Learned counsel for the petitioner would submit that the alleged transaction in question said to have been taken place is a time barred debt. Though the petitioner paid the entire amount, a false and fabricated case is filed for the offences under Sections 138 and 142 of the Negotiable Instruments Act, 1881 (for short, 'the Act'). Learned counsel for the petitioner also submits that there is a legal notice, dated 21.07.2016, which is not in consonance with the Act. Further, there is an arbitration clause. The dispute between the parties is a civil dispute. Earlier a notice was given to the petitioner to the same facts. There is no justification for proceeding with the matter and ultimately prayed to dismiss the same.

3. As per record, cheques were given by the petitioner/accused in discharge of a debt. There is ample record to show the same. Though there is an arbitration clause, it cannot be said that the remedy is barred to the complainant to proceed under Sections 138 and 142 of the Act. The contentions put before this Court by the learned counsel for the petitioner are unsustainable. Pendency of arbitration proceedings is nothing to do with the criminal proceedings. Both proceedings are distinct. Under these circumstances, the criminal petition is liable to be dismissed.

4. Accordingly, the criminal petition is dismissed.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

27th October 2017.

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