

THE HON' BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION Nos.637 & 638 of 2017

COMMON ORDER:

Criminal Petition No.637 of 2017, under Section 482 of the Code of Criminal Procedure (Cr.P.C.), is filed by the petitioner/Accused requesting to quash the proceedings in Calender Case No.330 of 2016 on the file of the Additional Judicial Magistrate of First Class at Prathipadu, East Godavari District, whereas Criminal Petition No.638 of 2017 is filed by the very same petitioner, but requesting to quash the proceedings in a different Calender Case i.e., C.C.No.106 of 2015 on the file of the Judicial First Class Magistrate at Jaggaiahpet, Krishna District. In the former petition, one Syed Imam is the complainant and he is shown as respondent No.2, whereas one Gaddam Srinivasa Rao is the complainant in the latter petition and he is shown as respondent No.2 therein.

The petitioner, who is common in both the Criminal Petitions, is requesting to quash the proceedings in the aforesaid Calender Cases. In both the petitions, the petitioner is alleged to have committed the offences punishable under Sections 138 and 142 of the Negotiable Instruments Act, 1881, as amended by Act 66 of 1988.

Heard Sri Voosa Raghu, learned counsel for the petitioner in both the petitions, and the learned Additional Public Prosecutor for the State of Andhra Pradesh appearing for respondent No.1 in both the petitions.

Precisely, the argument of learned counsel for the petitioner in both the petitions is that one Surendra Babu, whose son by name Aditya is an IPS Officer, is the main culprit behind the scene and, thus, he is instrumental in getting the present complaints filed against the petitioner and also other accused at various places in both the States of Telangana and Andhra Pradesh. Learned counsel further submits that the said Surendra Babu, who developed acquaintance with the petitioner, in fact, purchased the property admeasuring 6000 sq. yards in Sy.No.52/4 situated at Bijenepalli village, Mellacheruvu Mandal, Nalgonda District, from the petitioner and, on payment of consideration there for, sale deed was executed in his favour in the year 2012 and later, due to acquaintance with the said Surendra Babu, the petitioner took hand loan of Rs.25,00,000/- from Surendra Babu, assuring him to repay Rs.40,00,000/- within six months, and an agreement was also executed there for on 15.04.2013 with an averment therein that in case the petitioner fails to repay the amount, he shall execute registered sale deed pertaining to certain plots in favour of Surendra Babu. In connection with the said transaction, the petitioner alleged to have handed over three blank signed cheques, which numbers are also

stated in the affidavits filed in support of these petitions, for an amount of Rs.10,00,000/- each drawn on HDFC, Kodad Branch, Nalgonda District, but, however, the date and payee columns in the said cheques were stated to have been left blank.

Learned counsel would also submit that even though sale consideration was not paid by the said Surendra Babu for the plots mentioned in the agreement dated 15.04.2013, the petitioner executed a sale deed in favour of the said Surendra Babu on 11.02.2014 pursuant to the agreement executed on 15.04.2013, but the blank cheques were not returned by the said Surendra Babu and, on the other hand, he has prompted the present complainants, who are respondent No.2 in both these petitions, to file these complaints against the petitioner with regard to two cheques issued by the petitioner, leaving one cheque without initiating any similar action.

Learned counsel would also point out that the petitioner got issued a legal notice on 09.01.2015 to the said Surendra Babu, referring to all these aspects and to return the blank cheques, and copies of the said notice were also sent to the concerned police including the son of Surendra Babu, for which a reply was given on 23.01.2015 by the said Surendra Babu with all incorrect allegations and, thus, it is the submission of the learned counsel that the said Surendra Babu, with a

false motive, started litigating by foisting false cases against the petitioner and the petitioner is facing as many as six cases.

Be that as it may, truth or otherwise of the defence taken by the petitioner herein can be examined during trial of the Calender Cases, since number of probabilities have to be derived, which would arise from the proved facts and from the answers in the cross-examination of witnesses, by the petitioner herein. The ground based on the circumstance that, in the sale deed dated 11.02.2014, executed by the petitioner in favour of Surendra Babu, there is no reference to the alleged three cheques, would stand adverse to the case of the petitioner, and the defences raised by the learned counsel for the petitioner cannot at this stage be examined by conducting a roving enquiry in the present petitions filed under Section 482 of Cr.P.C.

Hence, these Criminal Petitions are dismissed at the stage of admission itself.

Miscellaneous applications, if any pending in these petitions, stand closed.

JUSTICE A.SHANKAR NARAYANA

30.01.2017
v v