

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6107 of 2017

ORDER:

Heard learned counsel for the petitioner/accused of S.T.C.No.132 of 2017 on the file of the Judicial First Class Magistrate, Pulivendula, Kadapa District, which is an outcome of a private complaint filed by respondent No.2/ de facto complainant for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and heard learned Public Prosecutor representing the state, before ordering notice to respondent No.2. Perused the grounds urged in the quash petition, complaint and other material on record including additional material right from the reply notice.

It is the contention of learned counsel for the petitioner/accused that the complaint is an outcome of the contract for sale, followed by memorandum of undertaking and there is no legally enforceable debt to enforce the cheque in question.

In fact, the said contentions raised by the learned counsel for the petitioner are the disputed facts to be adjudicated by the trial Court, unless the petitioner clearly proves herein the cheque not rooted from his account and the cheque not bearing his signature.

Having regard to the above, this Criminal Petition is disposed of by kept open all the defences available to the petitioner/ accused to urge before the trial Court during trial. It is needless to say if at all from the so called ill-health of the petitioner unable to attend regularly, remedy is left open to file an application under Section 205 Cr.P.C. and it is for the learned Magistrate to consider the same after hearing.

Pending miscellaneous petitions, if any, shall stand closed.

Date: 09.08.2017

Note:

Issue C.C. tomorrow.

B/ o.
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JUSTICE Dr. B.SIVA SANKARA RAO

