

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1741 OF 2017

ORDER:

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') requesting to quash the proceedings in C.C.No.697 of 2016 on the file of the Judicial First Class Magistrate, Kurnool.

2. The petitioner alleged to have committed the offences punishable under Sections 138 and 142 of the Negotiable Instruments Act, 1881 (for short, 'the Act').

3. Heard Sri Shaik Jilani, learned counsel for the petitioner and learned Additional Public Prosecutor for the State of Andhra Pradesh.

4. It is felt that there is no need to take out notice to the 2nd respondent, for the reason, there is no material in the present petition to accede to the request when *ex facie* looked at the factual aspect as well as the circumstances that can be culled out.

5. Learned counsel for the petitioner would submit that the cheques, which were utilized by the 2nd respondent, for laying criminal action under Section 138 of the Act, were, in fact, submitted towards security in connection with business transaction between the petitioner and the 2nd respondent-*de facto* complainant and misusing the same, the 2nd respondent has filed the aforesaid calendar case. It is also his submission that the petitioner approached the Civil Court by filing a suit in O.S.No.54 of 2015 on the file of the XI-Additional Junior Civil Judge, City Civil Court, Secunderabad, and even ad

interim injunction was granted in I.A.No.42 of 2015 on 05.02.2015 in favour of the petitioner. It is his further submission that when there is a life threat to the petitioner, he lodged a complaint, dated 03.02.2017, with the Station House Officer, I-Town Police Station, Kurnool. It is, therefore, his submission that the prosecution in the aforesaid calendar case is nothing but abuse of process of law, and, therefore, to allow the criminal petition.

6. It is true, the petitioner is engaged in the business of purchase and sale of Maize and the same is mentioned in the complaint. But, one thing is clear from paragraph No.4 of the affidavit that the petitioner gave blank signed cheques to the 2nd respondent. Whether the *de facto* complainant resorted to laying a criminal complaint by utilizing these cheques, is a matter to be examined during trial only, but not in a petition filed under Section 482 of the Cr.P.C.

7. Accordingly, the criminal petition is dismissed at the admission stage itself.

8. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

March 7, 2017.

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