

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.10603 OF 2014

ORDER:

Heard learned counsel for the petitioner – accused of C.C.No.108 of 2013 on the file of Judicial Magistrate of First Class, Palakonda, which is the outcome of a private complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act'), maintained by respondent No.2 from which the learned Magistrate has taken cognizance.

2. Perused the grounds urged in the quash petition and the complaint and the acknowledgement passed by one Samineni Ravindra, dated 25.04.2007, saying that he received two cheques bearing Nos.376539 and 376540 from the petitioner and from perusal of the present complaint, it appears the cheque in question is bearing No.376540.

3. It is the contention of the petitioner there from that two blank signed cheques obtained by Samineni Ravindra and acknowledged by him on 25.04.2007, caused filing of one private complaint in C.C.No.269 of 2013 at Visakhapatnam and maintaining of the present complaint.

4. There is *prima facie* defence to the accused, but for to say once the cheque routed from his account bearing his signature not in dispute, in applying the presumptions under Section 118 (a) to (f) read

with 139 of the Act, including from the three judge bench expression of the Honourable Apex Court in **Rangappa v. Mohan**¹, having regard to the above, by left open such defence, the Criminal Petition is disposed of. Needless to say, the petitioner is also at liberty to file an application under Section 251 Cr.P.C. before the trial Court raising these aspects as held by the Honourable Apex Court in **Bhushan Kumar v. State (NCT of Delhi)**². So far as difficulty from the claim as senior citizen to attend day to day adjournments is concerned, the petitioner is at liberty by virtue of this order to move an application under Section 205 Cr.P.C. to represent through special vakalat holder and on filing such application, the trial Court shall consider the same with necessary conditions.

5. Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

DR. B. SIVA SANKARA RAO, J

August 16, 2017.
MD

¹ AIR 2010 SC 1898

²(2012) 5 SCC 424