

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.11242 OF 2017

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in CrI.A. No.1187 of 2014 pending on the file of IV Additional Metropolitan Sessions Judge, Nampally, Hyderabad.

2) The petitioner is the accused and the 2nd respondent is the defacto complainant.

3) The 2nd respondent has filed a private complaint in C.C. No.349 of 2013 before the XV Special Magistrate at Hyderabad, under Section 200 Cr.P.C, for the offence punishable under Section 138 read with Section 142 of Negotiable Instruments Act, 1881, which was ended in dismissal after full fledged trial acquitting the petitioner for the alleged offence. Aggrieved by the same, the respondent herein preferred Criminal Appeal in Cr.A. No.1187 of 2014 invoking Section 372 read with Section 2 (wa) Cr.P.C and the same is pending before the appellate Court for hearing.

4) Learned counsel for petitioner contended that in view of the judgment of this Court in ***Smt.P.Vijaya Laxmi vs Smt.S.P.Sravana and another***¹, the appeal is not maintainable before the Sessions Court wherein reference was made to the Division Bench by the Single Judge of this Court holding that the appeal against the acquittal in complaint for the offence under Section 138 of N.I Act is not maintainable under Section 372 Cr.P.C, but the same is maintainable under Section 378 (4) Cr.P.C after obtaining special leave of this Court. Hence, the proceedings cannot be quashed and the Sessions judge has to return the appeal for presentation before the proper Court enabling

¹ CrI.P. No.16742 of 2016

the respondent to file a petition under Section 378 (4) Cr.P.C seeking special leave of this Court and consequently the Sessions Judge is directed to return the appeal for presentation before the proper Court to file a special leave petition.

5) With the above direction, the Criminal Petition is disposed of.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Dt.21.11.2017
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Date:21.11.2017

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