

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2901 OF 2017

JUDGMENT:

The present Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short 'Code') by the petitioner - accused aggrieved over the order, dated 11.09.2017, in CrI.M.P. No.2498 of 2017 in C.C. No.288 of 2016, passed by the learned X Special Magistrate, Hyderabad, whereby and where-under, the petition filed under Section 251 of the Code questioning the sustainability of the case, was dismissed.

2. Touching the facts, offence alleged against the petitioner is punishable under Section 138 read with 142 of the Negotiable Instruments Act, 1881. The petitioner, in fact, filed Criminal Petition No.6697 of 2017 before this Court to quash the proceedings questioning the sustainability of complaint, and he has also filed another Criminal Petition No.6685 of 2017 against another C.C. No.287 of 2016 between the same parties, and this Court passed a common order in both the Criminal Petitions, dismissing them and by giving liberty to file an application under Section 251 of the Code to decide the maintainability of the case by relying upon the decision of Hon'ble Supreme Court.

3. The revision petitioner appears to have pleaded innocence putting forth his submission that respondent No.1 - complainant

approached the learned Magistrate's Court by concealing the true facts that there were some disputes and having sorted out all the disputes between them, the revision petitioner agreed to pay a sum of Rs.45,22,000/- and thereby offered security by executing deed of mortgage of immovable property and the same was accepted by respondent No.1 - complainant, and thereby the deed of mortgage was executed on 27.07.2015 by agreeing to pay interest at 15% per annum which shall be paid at the interval of once in three months and, therefore, it is not a case, where there has been enforceable deed between them. The learned Magistrate having referred to the cheque, which was dishonoured for the reason "insufficient funds", discarded the stand taken by the revision petitioner as regards the cheque issued towards security purpose, but the same was pressed into service by the complainant, and when the case came up for cross-examination of the witness (PW.1), the learned counsel for the revision petitioner requested to defer the cross-examination, then filed the Crl.M.P. No.2498 of 2017 and there are no grounds to accede to the request and, therefore, dismissed the same.

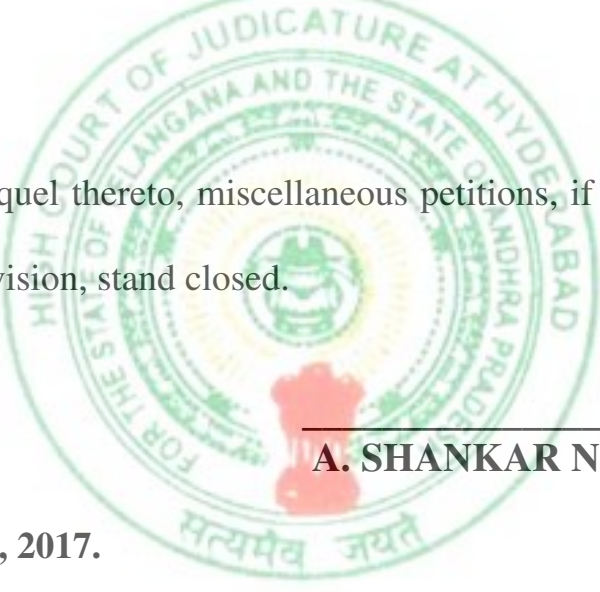
4. Aggrieved over the same, the revision petitioner preferred the present Criminal Revision Case.

5. Heard Mrs. M.S.V.S. Sudha Rani, learned counsel for the revision petitioner, and the present Criminal Revision Case is being disposed of at the admission stage itself.

6. In fact, in a discharge petition, the main ground relates to offering security and in that process, the documents were executed. The same has to be decided by a full-fledged trial. Certainly, that cannot be a ground to decide without there-being a proper adjudication of the respective pleas taken by the parties. There is absolutely no legal infirmity in the order passed by the learned Magistrate which is under challenge.

7. The present Criminal Revision Case is, accordingly dismissed.

As a sequel thereto, miscellaneous petitions, if any, pending in the present revision, stand closed.



A. SHANKAR NARAYANA, J

November 28, 2017.

Mgr