

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.12628 of 2017

ORDER:

This petition is filed under Section 482 of the Criminal Procedure Code to quash the proceedings in C.C.No.800 of 2017 pending on the file of VII Special Magistrate, Miyapur, Cyberabad, for the offence punishable under Section 138 of the Negotiable Instruments Act (for short 'the Act') on various grounds.

During hearing, at the stage of admission, learned counsel for the petitioner drawn the attention of this Court to the order dated 10.11.2014 passed by this Court in CrI.P.No.13224 of 2014, judgment in **Krishna Kumar Variar v Share Shoppe**¹ of the Apex Court and another judgment in **Shankara Pillai Krishna Kumar v State NCT of Delhi and others** (CrI.M.C.No.4164 of 2012) and contended that if, at the time of examination under Section 251 Cr.P.C., any objection is raised as to the jurisdiction or otherwise by filing application, the Court has to decide the question of jurisdiction by recording evidence, if necessary, before proceeding further with the case. In **Shankara Pillai Krishna Kumar's** case referred supra, the Delhi High Court permitted the petitioner to file appropriate applications before the Magistrate under Section 251 Cr.P.C and decide the jurisdiction and other aspects whether to proceed against the petitioner or not based on the allegations made in the private complaint and the material produced before it.

Applying the same principle to the present facts of the case, the petitioner is given liberty to file appropriate application before the Magistrate under Section 251 Cr.P.C. On filing of such

¹ 2010 Law Suit (SC) 386

application, the Magistrate is directed to decide the application in accordance with law.

Accordingly, the criminal petition is disposed of.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY,J

20.12.2017
kvrn

