

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.2432 of 2013

ORDER:

This petition is filed, by the petitioner, who is the sole accused, seeking for quash of the proceedings in C.C.No.2 of 2007 on the file of the Court of X Metropolitan Magistrate, Cyberabad at Malkajgiri, (which was renumbered as C.C.No.233 of 2011 on the file of the Court of 1<sup>st</sup> Special Metropolitan Magistrate, Cyberabad at Malkajgiri-vide orders in CrI.P.M.P.No.6502 of 2013). The offences alleged against the petitioners are under Sections 138 and 142 of N.I.Act.

2. Heard the counsel for the petitioner and the Public Prosecutor, appearing for the 1<sup>st</sup> respondent. None appears for the 2<sup>nd</sup> respondent in spite of notice.

3. The counsel for the petitioner submits that no statutory notice was issued to the petitioner, though he does not deny the fact of issuance of cheque. But a perusal of the complaint shows that a statutory notice was issued to the petitioner and the list of documents also shows the office copy of the said legal notice, dated 10.08.2007. Hence, the presumption under Section 138 of N.I.Act comes into operation.

5. In view of the above, this court opines that this is not a fit case for quash of the proceedings against the petitioner. However, the plea of the petitioner's counsel to dispense with the presence of the petitioner can be considered and the Court

below is directed not to insist upon the presence of the petitioner unless it is necessary for the proceedings of the case.

5. With the above observations, the Criminal Petition is dismissed. Interim stay granted by this court in this petition on 02.04.2013 shall stand vacated.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

August 21, 2018  
LMV

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T. RAJANI, J

