

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.726 of 2018

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973, is filed by the petitioner/accused, seeking to quash the proceedings in C.C.No.492 of 2017 on the file of the XV Special Magistrate, Erramanjil Colony, Hyderabad, registered for the offence punishable under Sections 138 read with 139 and 142 of the Negotiable Instruments Act, 1881.

2. Heard the learned counsel for the petitioner/accused, learned Assistant Public Prosecutor representing the 1st respondent-State and perused the record.

3. The learned counsel for the petitioner/accused would submit that the area where the alleged transaction took place is within the territory of the Telangana State. Therefore, the provisions of Money Lending Act are applicable. Without there being money lending licence, the respondent No.2 cannot lend money to the petitioner/accused and erroneously instituted the impugned proceedings for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

4. The learned Assistant Public Prosecutor opposed the relief sought for by the petitioner/accused.

5. The point for determination is whether the criminal proceedings instituted against the petitioner/accused can be quashed.

6. The crux of the matter is that whether lending of money to the petitioner/accused by the respondent No.2 is hit by the Money Lending Act or not is required to be determined in the enquiry/trial, which is going on in the impugned proceedings. The Court where the impugned proceedings are pending has to give a finding to that effect and ultimately determine the *lis*. Basing on the material placed before this Court, it cannot be held that money lending licence is essential for the respondent No.2 to institute the impugned proceedings against the petitioner/accused. The Criminal Petition is devoid of merit and is liable to be dismissed.

6. Accordingly, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand dismissed.

Dr. Shameem Akther, J

31st January, 2018
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