

HON' BLE SRI JUSTICE T. AMARNATH GOUD

W.P. No. 41000 of 2015

ORDER:-

This writ petition is filed for the following substantive relief:

“...to issue a writ of prohibition declaring that the 3rd respondent lacks inherent jurisdiction to entertain, try or adjudicate Criminal Appeal No.3 of 2015 filed by the 4th respondent as an appeal against acquittal in a case instituted on complaint lies to the High Court under Section 378(4) of Cr.P.C., as such, it violates Articles 14 and 21 of the Constitution of India, and consequently injunct the 3rd respondent from proceeding further in the Criminal Appeal.”

It is represented by the learned counsel for both the parties that the subject matter involved is purely technical and jurisdictional in nature wherein in pursuance of the complaint made by the 4th respondent under Section 138 of Negotiable Instruments Act, the petitioner-accused has been acquitted. Being aggrieved thereby, the 4th respondent has filed CrI.A.No. 3 of 2015 before the Court of III Additional Metropolitan Sessions Judge, Nampally – 3rd respondent, and the same is not maintainable. On the other hand, it is submitted that the 4th respondent ought to have challenged the judgment against acquittal before the High Court which is the appropriate forum as per the provision contemplated under Section 378 Cr.P.C.

This issue is squarely covered by the judgment of this Court reported in P. Vijaya Laxmi v. S.P.Sravana¹.

In view of the submissions made by the learned counsel for the parties and in the light of the above referred judgment, this writ petition is allowed. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

T.AMARNATH GOUD, J

15.12.2018

bcj



¹ 2018(2) ALT (CrI.) 35 (DB)(A.P)