

THE HON' BLE SRI JUSTICE C. V. NAGARJUNA REDDY
AND
THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No. 8100 of 2018

Date: 28th June, 2018

Between:

M/s Prasad Film Laboratories Private Limited

... Petitioner

And

The Court of Hon' ble XIV Addl. Judge-cum-
XVII Addl. Chief Metropolitan Magistrate,
Hyderabad, and another

... Respondents

COUNSEL FOR PETITIONER : Mr. B. Nalin Kumar

COUNSEL FOR RESPONDENTS : Mr. J. Anil Kumar (for R1)
Mr. Srinivasa Rao Velagapudi
(for R2)

THE COURT MADE THE FOLLOWING:

THE HON' BLE SRI JUSTICE C.V. NAGARJUNA REDDY

AND

THE HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No. 8100 of 2018

ORDER: (per the Hon' ble Sri Justice C.V. Nagarjuna Reddy)

This is a peculiar case where purporting to act on composition of offence registered under Section 138 of the Negotiable Instruments Act, 1881, (for short, 'the NI Act'), the VII Special Magistrate, Erramanzil, Hyderabad, has acquitted respondent No.2 and set him at liberty in exercise of his power under Section 320(8) of the Code of Criminal Procedure. Eventually, it has turned out that respondent No.2 has taken not only the petitioner but also the Court for a ride as the cheque issued by him in consideration of settlement of the dispute got dishonoured. The Special Magistrate, instead of waiting for implementation of the terms of the Award by respondent No.2, hurriedly acquitted him on the same day on which the Lok Adalat Award was passed. Interestingly in the Award, the Special Magistrate stated that if the cheque is not honoured, the Award stands cancelled.

A tricky situation has arisen on the facts of the case, in that, even if the Award stood cancelled, the acquittal order passed by the Special Magistrate cannot be recalled as he has no such power. Even this Court, in exercise of its power under Article 226 of the Constitution of India, cannot sit in appeal over the order of the Special Magistrate acquitting respondent No.2. In these circumstances, the only remedy available to the petitioner is

to avail the legal remedies available to him under the Code of Criminal Procedure for challenging the order dated 08.07.2017 acquitting the respondent No.2.

Subject to the liberty given to the petitioner as above, this writ petition stands disposed of.

As a sequel, I.A.No.1 of 2018 and I.A.No.2 of 2018 shall stand closed.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

28th June, 2018

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