

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

Criminal Petition No.2493 of 2018

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973, is filed by the petitioner/accused, to quash the proceedings in C.C.No.495 of 2017 on the file of XIX Special Magistrate, Hyderabad.

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

3. It is contended that there was no consideration to issue the impugned cheque. The averments of the complaint filed before the Court below do not constitute offence under Section 138 the Negotiable Instruments Act, 1881. Continuation of proceedings against the petitioner/accused will amount to abuse of process of law and ultimately prayed to allow the application.

4. The learned Assistant Public Prosecutor opposed the application.

5. As seen from the material placed on record, the petitioner/accused was in need of money to organize a charitable function. In that connection, the de-facto complainant gave an amount of Rs.60,000/- to the petitioner/accused in July, 2017. After receipt of the said amount, the petitioner/accused gave a post-dated cheque to the de-facto complainant for Rs.60,000/-. The truth or otherwise of the allegations and whether there is any consideration in issuing the impugned cheque can be

decided in the course of trial. In the course of submissions, it has come to light that the petitioner/accused is 80 years old and she has health problems and it is difficult for her to attend the Court on each and every date of adjournment.

6. Under these circumstances, the petitioner/accused is entitled to file a petition under Section 205 of Cr.P.C. before the Court below. On filing of such application, the Court below may consider the same in its merits and in accordance with law.

7. With the above observation, the Criminal Petition is dismissed.

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

28th February, 2018
Bvv

Dr. Shameem Akther, J

