

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.10792 of 2011

ORDER:

This criminal petition is filed, seeking for quash of the proceedings in Cr.No.129 of 2011, against the petitioner, who is A1, on the file of the Station House Officer, Khammam III Town Police Station, Khammam District. The offences alleged are under Sections 467 and 468 of the Indian Penal Code.

2. Heard the counsel for the petitioner and the learned Public Prosecutor, appearing for the second respondent. None appears for first respondent in spite of notice.

3. The complaint is filed on 22.10.2011 alleging that the petitioner has misutilized the cheque, which was given by the complainant five years ago. He admits that he has signed on the cheque and has given it to the petitioner. Hence, in such circumstances, merely by virtue of the fact that date was put by the petitioner on the cheque, which was given without any date, it cannot be said that any cheating was done.

4. Apart from that, the counsel for the petitioner draws the attention of this Court to the contents of the complaint, which shows that the complainant had paid Rs.1,00,000/- by way of DD in pursuance of a compromise entered into between the parties, after the issuance of statutory notice with regard to the dishonour of the cheque.

5. It is the allegation in the complaint that the said DD was obtained by cheating the complainant. But the said allegation does not

seem to be cogent. He already makes the allegation that he has issued the cheque and that the same was misutilized by the petitioner and in such circumstances, he cannot be assumed to have believed and issued a DD again subsequent to his being cheated by the petitioner.

In the light of the above, the criminal petition is allowed and the proceedings in Cr.No.129 of 2011, against the petitioner, who is A1, on the file of the Station House Officer, Khammam III Town Police Station, Khammam District, are hereby quashed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

September 28, 2018
DSK

T. RAJANI, J

