

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.8919 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioner/ sole accused, seeking to quash the proceedings in C.C.No.1402 of 2017 on the file of the Additional Judicial First Class Magistrate, Anantapuramu, where taken cognizance for the offence punishable under Section 138 of the Negotiable Instruments Act (for short 'the Act').

2. The above said C.C. is outcome of the private complaint of the 1st respondent herein. When the two cheques bearing Nos.957771, dated 25.03.2017 for Rs.4,50,000/- and 957773, dated 03.05.2017 for Rs.3,50,000/- were presented by the complainant, those were dishonoured with an endorsement of 'funds insufficient' and from the statutory notice issued, the petitioner/ accused failed to pay the amount and from accrual of cause of action filed the complaint that was taken cognizance. It is, at the post cognizance service of summons impugned by the accused and the sustainability of the complaint and the cognizance order.

3. Heard the learned counsel for the petitioner and the learned counsel for the 1st respondent/ complainant and perused the material on record.

4. The contentions of the petitioner in seeking to quash the proceedings of the above C.C. are that the cheque leafs

presented by the 1st respondent/ complainant was out of the earlier cheque book and the model of the cheque is changed long prior to it and taking advantage of the available old cheque leafs, the complainant misused the same and the signature of the petitioner/ accused is already in dispute.

5. Once the above contentions raised by the learned counsel for the petitioner/ accused are the factual disputes, this Court cannot readily accept the contentions a gospel truth much less to quash proceedings, but relegate to putforth such defence before the trial Court.

6. With the above observations, the Criminal Petition is closed, rather than dismissal. By considering the representation of the learned counsel for the petitioner that the petitioner is a senior citizen, aged about 65 years, unable to attend the Court personally for every adjournment, the petitioner is given liberty to file an application before the learned Magistrate concerned, under Section 205 Cr.P.C. to represent through special vakalat holder and the learned Magistrate, after hearing, permit with necessary conditions.

7. Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 16.11.2018
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