THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No. 7153 OF 2018

ORDER:

This Criminal Petition under Section 482 of Cr.P.C. is filed by the petitioner-accused seeking to quash the proceedings against her in C.C.No. 756 of 2017 on the file of the Court of XXIV Metropolitan Magistrate at Prashanth Nagar, Kukatpally (for short, 'the trial Court').

2. Respondent No. 2 – complainant filed the above C.C. under Section 142 of the Negotiable Instruments Act, 1881 (for short, 'the Act'), alleging that the petitioner, in discharge of legally enforceable debt, issued two *post* dated cheques bearing Nos. 604999 and 605001 for Rs.8,00,000/- each dated 30-11-2016 drawn on M/s. ICICI Bank Limited, S.R. Nagar Branch, Hyderabad, with a promise to honour them in due course. When respondent No. 2 presented those cheques with his banker M/s. Andhra Bank, Sanath Nagar Branch, Hyderabad, they were returned dishonoured with an endorsement "Funds Insufficient". After issuing legal notice dated 11-02-2017 and following the formalities contemplated under the Act, respondent No. 2 filed the above complaint.

3. The submission of learned counsel for the petitioner is that the petitioner never issued the two cheques mentioned in the complaint towards discharge of any legally enforceable debt and a false case has been filed against her. Learned counsel would further submit that in fact, the petitioner got issued legal notice dated 07-02-2017 to respondent No. 2 informing that earlier, in

connection with some money transactions, the petitioner issued two cheques in favour of respondent No. 2 for Rs.8,00,000/- each and two cheques in favour of one V.Nirmala, daughter of respondent No. 2, for Rs.8,00,000/- each and upon final settlement of those transactions in October, 2016, the wife of respondent No. 2 returned the cheques along with signed receipts. In the said notice, the petitioner also got it mentioned that during January, 2016, the petitioner travelled out of the city and at that time, due to acquaintance, Smt. Aruna, wife of respondent No. 2, was permitted to stay in their house and at that time, the wife of respondent No. 2 with a *mala fide* intention had stolen the cheques issued to them earlier. Learned counsel would submit that the petitioner apprehends that those stolen cheques must have been pressed into service to file the complaint and therefore, continuation of the proceedings would amount to abuse of process of the Court and hence, the proceedings may be quashed.

4. It is seen that in the notice dated 07-02-2017, the petitioner indeed pleaded that the cheques which were returned by respondent No. 2 were stolen by his wife from the house of the petitioner. However, this fact has to be determined after conducting full-fledged trial in the C.C. to know whether respondent No. 2 has pressed into service the two cheques or whether those cheques were indeed given by the petitioner in due discharge of a legally enforceable debt. Therefore, the petitioner is at liberty to put forth her defence plea before the trial Court and face the trial and vindicate her stand.

5. With the above observation, the criminal petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed in consequence.

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11-07-2018. *U.DURGA PRASAD RAO, J.*
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