

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION Nos.2384 and 2392 of 2016

COMMON ORDER :

The self same petitioners are A.1 and A.2 in C.C.Nos.879 and 878 of 2015 on the file of the II Additional Judicial Magistrate of First Class, Ongole, out come of two private complaints of the self same 2nd respondent for the so-called dishonour of the respective cheques from statutory notice and the alleged non-payment from accrual of cause of actions in filing the complaints that were taken cognizance and on summons from the appearance filed the quash petitions.

2. The defence raised in seeking to quash the proceedings is that the so-called property sold under the contract of sale is not with clear title and the cheques issued is for part of the consideration and a reading of the statutory notice of the complainant from the so-called dishonour of the cheques indicating about the notice issued by the accused persons to the complainant, thereby the proceedings are liable to be quashed.

3. *Prima facie*, the cheques were rooted from the account of the accused, when not in dispute, the Court cannot readily quash the proceedings, but for any such defence is left open during trial.

4. Having regard to the above, the Court is unable to quash the cognizance orders of the learned Magistrate in taking on file the private complaint cases for so-called dishonour of the cheques, but for left open available defences. From the difficulty expressed in

personal appearance of both accused in both the cases though pending before the same Court, asked to be posted on one day instead of different dates, remedy is left open either to invoke under Rule 37 of Criminal Rules of Practice for one to represent both or to file the Special Vakalat petitions under Section 205 Cr.P.C., for the learned Magistrate to consider and pass appropriate orders.

5. With the above observation, both the criminal petitions are disposed of.

Miscellaneous petitions pending, if any, shall stand closed in both the cases.

12th November 2018.

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Dr. B. SIVA SANKARA RAO, J

