

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.8472 of 2018

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the proceedings in C.C.No.772 of 2017 on the file of IV Additional Chief Metropolitan Magistrate, Visakhapatnam, registered for the offences punishable under Sections 420 & 384 IPC.

The second respondent filed a private complaint against these petitioners/accused, alleging that the second respondent borrowed Rs.4 lakhs from the first accused. As a security to the loan, the second respondent handed over four signed cheques and signed promissory notes to the first accused at the time of borrowing amount from him. Even after discharge of the debt, the first petitioner/A-1 did not return the said cheques and promissory notes, thereby, first petitioner/A-1 cheated the second respondent and based on those cheques and promissory notes, the petitioners/accused are liable for punishment.

The private complaint was referred to the Station House Officer, III Town Police Station, Visakhapatnam City, by exercising power under Section 156(3) Cr.P.C and after conducting investigation, filed charge-sheet before the Court.

The petitioners/accused filed this petition to quash the proceedings in C.C.No.772 of 2017 on the file of IV Additional Chief Metropolitan Magistrate, Visakhapatnam, on the ground that the cheques were issued in lieu of discharge of debt due to

these petitioners and when the cheques were presented, they were returned unpaid by the payee bank authorities and after compliance of necessary mandatory procedure prescribed under Section 138 of N.I. Act, filed a private complaint which is registered as C.C.No.772 of 2017 on the file of IV Additional Chief Metropolitan Magistrate at Visakhapatnam. It is brought to the notice of this Court that, the first petitioner/A-1 filed C.C.No.163 of 2017 before the I Additional Chief Metropolitan Magistrate, Visakhapatnam and also filed O.S.No.687 of 2017 before the Senior Civil Judge, Visakhapatnam. Therefore, the cheques were not issued by the second respondent only to discharge the debt due to the first petitioner/A-1 and handed over as a security for the debt borrowed by the second respondent. Therefore, requested this Court to quash the proceedings in C.C.No.772 of 2017 on the file of IV Additional Chief Metropolitan Magistrate, Visakhapatnam.

However, in view of pendency of in C.C.No.772 of 2017 on the file of IV Additional Chief Metropolitan Magistrate, Visakhapatnam, if any finding is recorded at this stage, it would have its own impact on C.C.No.163 of 2017 pending on the file of the I Additional Chief Metropolitan Magistrate, Visakhapatnam and O.S.No.687 of 2017 pending on the file of Senior Civil Judge, Visakhapatnam. Therefore, instead of exercising power to quash the proceedings under Section 482 Cr.P.C, I deem it appropriate to withdraw on C.C.No.163 of 2017 pending on the file of the I Additional Chief Metropolitan Magistrate, Visakhapatnam and transfer the same to the Court of IV Additional Chief Metropolitan

Magistrate, Visakhapatnam, where C.C.No.772 of 2017 is pending, try and dispose of both the matters on the same day, in accordance with law.

With the above direction, the criminal petition is disposed of.

Consequently, miscellaneous applications pending if any, shall stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date: 10.08.2018

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