

THE HON'BLE JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.9556 OF 2018

ORDER:

This petition is filed by the petitioner-sole accused under Section 482 Cr.P.C., to quash the proceedings in C.C.No.113 of 2016 on the file of the Judl. Magistrate of I Class, Nandikotkur, Kurnool District, which was taken cognizance for the offence punishable under Section 138 of the Negotiable Instruments Act, on various grounds.

2. During the course of hearing, Mr.K.V.R.Krishna Sharma, learned counsel for the petitioner requested this Court to dispense with the appearance of the petitioner before the Magistrate on all dates of adjournments. But this Court cannot exercise the power under Section 205 Cr.P.C. or Rule 37 of Criminal Rules of Practice. Therefore, I am not inclined to issue any direction to dispense with the appearance of the petitioner. Since the order under Section 205 Cr.P.C. is purely a discretionary order of the Magistrate and subject to the necessity of the appearance of the petitioner, the trial Court can pass appropriate orders exercising the power under Section 205 Cr.P.C. in view of law declared by the Hon'ble apex Court **M/S BHASKAR INDUSTRIES LTD., V M/S BHIWANI DEHIM AND APPARELS AND OTHERS**¹.

3. Accordingly, the Criminal Petition is disposed of giving liberty to the petitioner to file appropriate application under Section 205 Cr.P.C., or Rule 37 of Criminal Rules of Practice and on filing such an application, the learned Magistrate is directed to dispose of the same in accordance with law within a week from the date of filing of application in

¹ AIR 2001 SC 3625

view of law declared by the Hon'ble apex Court **M/S BHASKAR INDUSTRIES LTD., V M/S BHIWANI DEHIM AND APPARELS AND OTHERS** (referred supra). Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M.SATYANARAYANA MURTHY, J

DATED: 07-09-2018.

Hsd

