

SMT. JUSTICE T.RAJANI

CRIMINAL PETITION No.5932 of 2013

ORDER:

This criminal petition is filed under Section 482 Cr.P.C., seeking to quash the proceedings in C.C.No.278 of 2010 on the file of Special Judicial First Class Magistrate (Prohibition and Excise), Khammam, registered for the offences under Sections 138 and 142 of Negotiable Instruments Act, 1881 (for short 'the Act'), against the petitioner/accused.

2. Heard learned counsel for petitioner/accused and learned Public Prosecutor for the first respondent. None appears for the second respondent in spite of service of notice.

3. Learned counsel for the petitioner submits that the complaint needs to be quashed on the ground that statutory notice was not served upon the petitioner within the prescribed time.

4. The averments in the complaint would show that the cheque was returned vide memo dated 17.08.2009 and the legal notice was served upon the petitioner on 24.10.2009. According to Section 138 of the Act, notice has to be sent within 30 days from the date of return of the cheque.

5. In view of the above, this Court opines that continuation of proceedings against the petitioner would only be an abuse of process of law and the proceedings are liable to be quashed.

6. Accordingly, the Criminal Petition is allowed, quashing the proceedings in C.C.No.278 of 2010 on the file of Special Judicial First Class Magistrate (Prohibition and Excise), Khammam, against the petitioner/accused. Miscellaneous applications, if any, pending in this criminal petition shall stand closed.

T. RAJANI, J

10th September, 2018.

sj

