

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.1901 OF 2013

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner - accused No.2 seeking to quash the proceedings in Calendar Case No.248 of 2012, pending on the file of the Special Judicial Magistrate of Excise, Ongole, registered for the offence punishable under Section 406 read with 34 of the Indian Penal Code, 1860.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor appearing for the State of Andhra Pradesh.

3. The learned counsel for the petitioner submits that as per the complaint, accused No.1 obtained a loan from the company of which respondent No.2 herein is a Recovery Executive, for purchase of tipper, and accused No.2 stood as guarantor for the said loan.

3. The allegations are that accused No.1 failed to pay balance installments and accused Nos.1 and 2 failed to produce the vehicle for inspection. From the complaint itself, it can be understood that the transaction between the parties is a commercial transaction and there is a Loan - cum - Hypothecation Agreement between them. Violation of terms and conditions of the said agreement would only give rise a civil dispute. Absolutely, there are no ingredients mentioned in the complaint, attracting the offence punishable under Section 406 IPC. No

common intention can be inferred on the part of accused No.2 for the default that is allegedly committed by accused No.1.

5. Hence, considering the above, the present Criminal Petition is allowed and all the proceedings in Calendar Case No.248 of 2012, pending on the file of the Special Judicial Magistrate of First Class of Excise, Ongole, Prakasam District against the petitioner - accused No.2 are hereby quashed.

Consequently, Miscellaneous Petitions, if any, pending in the present Criminal Petition stand closed.

December 14, 2018
Mgr

SMT. T. RAJANI, J

