

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.10931 OF 2018

ORDER:

The petitioner is A9, 2nd respondent is Manager of the Andhra Bank, on whose report, crime No.85 of 2011 registered by the Station House Officer, Muvvalavanipalem Police Station, Visakhapatnam, for the offences punishable under Sections 420, 468 and 471 IPC. The police, after investigation, filed charge sheet against several accused 13 in number including the petitioner as A9.

2. The sum and substance of the accusation from the report and the statements of the witnesses, particularly, de facto complainant/ Chief Manager, LW.2-another Chief Manager, LWs.3, 4 and 5, the witnesses, clearly speak the property which is mortgaged and availed the loan to the bank was earlier submitted two mortgages and suppressing the fact including the difference in Sy.Nos.177 to 177/1 concerned, the loan was availed is the sum and substance.

3. Once such is the case, there is *prima facie* accusation for the offence of cheating. Though, so far as the offence under Section 468 IPC concerned, it must be forgery for the purpose of cheating and the offence under Section 471 IPC concerned, using as genuine a forged document, it is not a case to go into, when the limitation to commence to say offence under Section 471 IPC is barred or not, such defence, if at all, is left open before the trial Court by filing any

application for discharge, if charges not framed including if at all framed any application for modification of the charge or to delete the charge as contemplated by Section 216 Cr.P.C.

4. Prima facie, so far as the petitioner concerned, it is not a case that the petitioner forged the document for the purpose of cheating from the offence under Section 468 IPC.

5. Having regard to the above, the Criminal Petition is allowed in part by quashing the offence under Section 468 IPC, for which the cognizance taken without interference to the cognizance taken for the offences punishable under Sections 420 and 471 IPC. All defences are left open including if at all to file any discharge application or modification of the charge as the case may be.

6. Miscellaneous petitions pending if any, shall stand closed.

Date: 20.11.2018
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Dr. B. SIVA SANKARA RAO, J