

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.2249 of 2015

ORDER :

The petitioner is sole accused for the offence under Section 138 of the Negotiable Instruments Act, 1881, out come of the private complaint of the 2nd respondent-complainant in allotting C.C.No.84 of 2014 by the learned Chief Metropolitan Magistrate, Visakhapatnam. The alleged cheque bearing No.000029 for Rs.7,42,000/-. In the private complaint it is averred that the petitioner executed sale deed registered No.386 of 2005 of Sub Registrar Office, Bheemunipatnam for Rs.40,500/-, dated 27.01.2005 in favour of the complainant. The complainant came to know that the property sold by the complainant to the accused by registered document supra is a Government land and grabbed by accused and sold to complainant with false claim suppressing the factual possession and there was a news item in the Eenadu Telugu Newspaper, dated 26.03.2011, and on seeing it when approached the accused and questioned about the transaction and the mischief and fraud committed by the accused on him with cheating in causing loss in sale with no title, the petitioner offered to reimburse Rs.7,42,000/-, for which the cheque was issued, and the same was when presented returned dishonour and after statutory notice from the cause of action stated filed the complaint.

2. Once such is the case, any defence of the petitioner on any factual aspects is left open to agitate before the trial Court to decide

on own merits thereby without prejudice to such defence, the criminal petition can be disposed of.

3. Accordingly and in the result, the criminal petition is disposed of. From the difficulty expressed of personal appearance, the petitioner is given liberty to file application under Section 205 Cr.P.C. to represent through Special Vakalat Holder, for the learned Magistrate to hear and permit with necessary conditions, by virtue of this order.

Miscellaneous petitions pending, if any, shall stand closed.

12th November 2018.

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Dr. B. SIVA SANKARA RAO, J

