

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.11356 of 2018

ORDER :

The petitioner is the sole accused in C.C.No.610 of 2018 pending on the file of the Additional Judicial First Class Magistrate, Anantapuram, taken cognizance for the offence under Section 138 of the Negotiable Instruments Act, out come of the private complaint of the 2nd respondent M/s.Kapil Chit Funds (P) Limited, Hyderabad, it is from the cheque presented returned dishonoured as 'account closed', from the statutory notice issued acknowledged and replied from the accrual of cause of action filed the complaint that was taken cognizance and at the post cognizance summons issued, the quash petition is filed impugning the said cognizance.

2. One of the contentions is that no part of cause of action arisen within the jurisdiction of the Court. Prima facie, the Court is not able to concede but for left open such defence during trial before lower Court. The other contention is that a blank cheque obtained long back misused that is also a part of defence as *prima facie*, the Court cannot quash the cognizance proceedings with such a proposed defence including if at all stated in the reply notice.

3. Having regard to the above, without prejudice to such defence, the criminal petition is disposed of, rather than dismissal. From the difficulty expressed of personal appearance for every adjournment, 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.

Dr. B. SIVA SANKARA RAO, J

16th November 2018.

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