

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.12855 OF 2018

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C by the petitioner/ accused, seeking to quash the proceedings in C.C.No.337 of 2017 on the file of the II Additional Judicial Magistrate of First Class, Kadapa, registered for the offence punishable under Section 138 of the Negotiable Instrument Act.

Heard learned counsel for the petitioner and learned Public Prosecutor appearing for the State in opposing the criminal petition, before ordering notice to respondent No.2/ de facto complainant and perused the material on record.

It is stated in the affidavit filed in support of the petition at para-4 that learned counsel for respondent No.2/ complainant is not accepting the notice, is without any basis, in the absence of filing of any memo of refusal before the lower Court, that too, not even sending the notice if at all by registered post with acknowledgement due.

Having regard to the above, remedy is left open to the petitioner to approach the lower Court and file an application for recall by personal appearance invoking Section 70(2) Cr.P.C for the learned Magistrate to consider subject to imposing of penalty on the earlier bond from the failure to comply with on filing affidavits of existing surities by fresh bonds to accept.

Accordingly, the Criminal Petition is disposed of.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 30.11.2018
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