

THE HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.5827 of 2018

ORDER :

The petitioners are A.1 to A.4 in C.C.No.703 of 2017 on the file of the Principal Judicial Magistrate of First Class, Kodad. The learned Magistrate has taken cognizance on the complaint of the 2nd respondent-complainant for the offence under Section 138 of the Negotiable Instruments Act, 1881, for the so-called dishonour of the cheque bearing No.042401, for Rs.5,00,000/-, dated 19.08.2017. Undisputedly, subsequent to the cheque dishonour with return memo, the accused paid the amount by RTGS. Once such is the case, the prosecution is not maintainable, for there is no any accrual of cause of action, that too when the cheque was returned dishonoured and amount paid. The contention of the complainant that he got a right to adjust for other chit amount is untenable, as the remedy for other chit amount due, if any, is before civil Court.

With these observations, the criminal petition is allowed and the proceedings against the petitioners/A.1 to A.4 in C.C.No.703 of 2017 on the file of the Principal Judicial Magistrate of First Class, Kodad, are quashed. The bail bonds of the petitioners/A.1 to A.4, if any, shall stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

28th January 2019

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