

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.2540 OF 2011

ORDER:

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This Criminal Petition is filed by the petitioner/accused under Section 482 of Cr.P.C. to quash the proceedings in C.C.No.61 of 2011 on the file of the Judicial First Class Magistrate, at Ramannapet.

The facts leading to filing of this petition, in brief, are as follows:

The petitioner borrowed an amount of Rs.6,00,000/- from the 2nd respondent on 23.11.2009 and agreed to repay the same with interest at the rate of 24% per annum. The petitioner/ accused issued a cheque bearing No.209133, dated 23.11.2009 in favour of the 2nd respondent. On the same day, the 2nd respondent presented the same in the State Bank of Hyderabad, Chityal Branch, Nalgonda District and the same was dishonoured. On 24.12.2010 the 2nd respondent issued a legal notice to the petitioner herein. The petitioner, instead of paying the cheque amount, issued reply notice dated 30.12.2010. The 2nd respondent having no other alternative, filed the complaint under Section 200 of Cr.P.C. on the file of the Judicial First Class Magistrate, at Ramannapet and the same was taken on file under Sections 138 and 142 of the Negotiable Instruments Act, 1881 (for short, 'the Act') and numbered as C.C.No.61 of 2011.

Heard the learned counsel for the petitioner and the learned counsel for the 2nd respondent.

The contention of the learned counsel for the petitioner is that the alleged debt is not legally sustainable.

Learned counsel for the 2nd respondent submitted that this is not the stage to decide the merits of the case.

A perusal of the record reveals that the petitioner herein filed O.S.No.512 of 2009 on the file of the Additional Junior Civil Judge, Ranga Reddy District at Miyapur, wherein the 2nd respondent herein is not a party. The petitioner herein filed the private complaint against the 2nd respondent herein and others. It is not the case of the petitioner that he did not issue the cheque in question in favour of the 2nd respondent. The question whether the debt is legally enforceable or not cannot be decided at this stage. The allegations made in the complaint constitute the offences alleged to have been committed by the petitioner under Sections 138 and 142 of the Act.

While exercising the jurisdiction under Section 482 Cr.P.C., this Court has to proceed entirely on the basis of the allegations made in the complaint, the Court has no jurisdiction nor justification to examine the correctness or otherwise of the allegations. This is not the stage to decide the correctness or genuineness of the allegations made in the complaint. Viewed from the factual or legal aspects, the petition is not legally sustainable.

Taking into consideration the facts and circumstances of the case, I am of the view that it is not a fit case to quash the proceedings in C.C.No.61 of 2011 on the file of the Judicial First Class Magistrate, at Ramannapet.

In the result, the Criminal Petition is dismissed.

Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 02.06.2014
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