

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.12246 of 2014

ORDER :

This Criminal Petition is filed by the Petitioners/ accused Nos.1 to 3 under Section 482 Cr.P.C seeking to quash the proceedings in C.C. No.476 of 2014 on the file of Judicial First Class Magistrate, Nandyal, Kurnool District, where the learned Magistrate has taken cognizance for the offence punishable under Section 138 N.I Act, which is outcome of private complaint of 2nd respondent—de facto complainant.

2) Heard learned counsel for the petitioners/ accused Nos.1 and 2 as well as 2nd respondent—State represented by learned Public Prosecutor before admission and before ordering notice to 1st respondent—de facto complainant. Perused the material on record.

3) As rightly pointed out by the learned counsel for the petitioners, so far as accused No.3, but for father of A-2, one of the directors of A1 entity, there is no allegation to say as to how he is responsible for day-to-day affairs of the company or for the dishonour of the cheque. Thus, so far as the private complaint taken cognizance against A-3 concerned for no allegations in the complaint, on its bare perusal cognizance taken and summons issued are unsustainable and liable to be quashed as per the settled law and also for the reason that on behalf of A1 entity, A-2—its managing director issued the cheque and A3 is not even the drawer vide Decision in ***M/s.Aparna Asha vs Sheth Developers Pvt. Ltd***^[1] and the latest judgment passed by this Court on 11.09.2015 in CrI.P. Nos.11336 and 13561 of 2014. So far as accused Nos.1 and 2 concerned their defence that there is no legally enforceable debt not prone for quash petition but for to raise the same before the trial Court and without prejudice to that, so far as accused Nos.1 and 2 is concerned the Criminal Petition is dismissed by leaving it open to raise the same before the trial Court. The trial Court shall proceed with the case against accused Nos.1 and 2.

4) So far as accused No.3 is concerned, the Criminal Petition is allowed and all the proceedings relating to C.C. No.476 of 2014 on the file of Judicial First Class Magistrate, Nandyal, Kurnool District against A3 are hereby

quashed. The bail bonds of the petitioner/ accused No.3, if any, shall stand cancelled.

5) Accordingly, the Criminal Petition is partly allowed.

6) Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.14.10.2015
Knl

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

-
-
-
-
-
-
-

CRIMINAL PETITION No.12246 of 2014

Date:14.10.2015

knl

[\[1\]](#) 2013 Cri J 3748