

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5001 of 2015

ORDER :

This Criminal Petition is filed by the Petitioner/ accused No.3 under Section 482 Cr.P.C seeking to quash the C.C. No.194 of 2014 on the file of VII Special Magistrate, Hyderabad, where the learned Magistrate has taken cognizance for the offence punishable under Section 138 N.I Act, outcome of private complaint of 1st respondent—de facto complainant.

2) Heard learned counsel for the petitioner/ accused No.3 and 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 including the impugned order of the lower Court passed on 08.05.2015 in CrI.P. No.692 of 2015 in C.C. No.194 of 2014 on the file of the VII Special Magistrate, Hyderabad, the impugned order is in dismissing the application filed under Section 311 Cr.P.C for recall of DW.1.

3) It is the contention of the learned counsel for the petitioner/ accused No.3 that in the evidence of PW.1 as well as accused No.3—DW.1, who came on record, the so-called registered firm of A1 and A2 and the certificate of registration is called for and produced undisputedly before the Court that is to be exhibited, for that he sought for recall and the lower Court dismissed the application saying when the firm is covered by partnership deed between accused Nos.1 and 2 and accused No.3 is not a partner, it was no way concerned to say much less exhibited and it is also the observation that the issuing authority has to exhibit. It is to be a document within the meaning of Sections 73 to 77 of Evidence Act once the public document is issued, it is by itself a sufficient proof regarding the contents to exhibit through anybody but for relevance. Here the contention whether firm of A1 and 2 registered or not makes no difference for no contention of complainant firm is registered or not. In

fact complainant is an individual and there is practically no meaning for the A3 to exhibit the document much less to give any credence to the cross examination of the firm of accused Nos.1 and 2 is registered or not in relation to the core question of cheque issued returned dishonoured and the liability of A3 if any exists or not.

4) Having regard to the same, there is nothing to interfere with regard to the impugned order of the lower Court, the Criminal Petition is dismissed confirming the order passed on 08.05.2015 in CrI.P.No.692 of 2015 in C.C. No.194 of 2014 on the file of VII Special Magistrate, Hyderabad.

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

Dr. B. SIVA SANKARA RAO, J

Dt.03.09.2015
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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Date:03.09.2015

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