

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.775 of 2013

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ORDER :

The petitioner is A.3 of C.C.No.467 of 2012 on the file of the

I Special Magistrate at Hyderabad. The 1st respondent to the quash petition is the complainant of the said private complaint under Section 138 read with 142 of the Negotiable Instruments Act, 1882 (for short, 'the Act') and Section 190 Cr.P.C. for the dishnour of the two cheques bearing No.043871 dated 28.03.2012 for Rs.5,00,000/- and 043715 dated 22.03.2012 for Rs.15,00,000/- saying from the very complaint maintained against respondent No.2-A.1 entity and respondent No.3-A.2 , who is the Managing Director of A.1 entity.

2. The averments in the complaint are that A.1 represented by A.2 and A.3 approached the complainant for the work contract entrusted, however they failed to do the work and later for the payments, A.1 representing A.2 and A.3 towards repayment of advance issued two cheques supra. A perusal of the two cheques shows those were only issued by A.2 and not by the quash petitioner A.3. It clearly speaks from the complaint that, the petitioner-A.3 is not shown as drawer of the cheque and no where it is shown how the petitioner-A.3 can be personally made liable as person responsible for day-to-

day affairs. No doubt, it is averred vaguely as responsible. It is not sufficient in the absence of pleading as to how he is responsible to the day-to-day affairs of the company or entity at the time of dishonour of the cheques to make statutorily even liable under Section 141 of the Act as per settled law reiterated in ***Mr.Narendra Urangi v. M/s.Greenmint India Agritech Pvt. Ltd*** in CrI. Petition Nos.11336 of 2014 and batch dated 11.09.2015 by this Court. Coming to the facts further except issuance of notice, copy of postal receipts filed and also received and despite in the absence of specific allegation as to how liable for day to day affairs for dishonour to make a Director, who is not drawer of the cheque on behalf of the entity, liable for prosecution is not sustainable from the settled law. Thereby, suffice to say, the complaint proceedings so far as the petitioner-A.3 is concerned are unsustainable and are liable to be quashed.

3. Accordingly, the criminal petition is allowed and all the proceedings relating to C.C.No.467 of 2012 on the file of the I Special Magistrate, Hyderabad, are quashed against the petitioner/A.3. The bail bonds of the petitioner/A.3, if any, shall stand cancelled.

4. Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

8th December 2015.

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