

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

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CRIMINAL PETITION No.5843 of 2015

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Between:

Sandhya Aggarwal

.. Petitioner

And

The State of Telangana,
rep. by its Public Prosecutor,
High Court, Hyderabad & another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 03-07-2015

SUBMITTED FOR APPROVAL:

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

1. Whether Reporters of Local newspapers
Yes/No
may be allowed to see the Judgment?

2. Whether the copies of judgment may be
marked to Law Reporters/Journals

Yes/No

3. Whether Their Lordship wish to
see the fair copy of the Judgment?

Yes/No

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.5843 of 2015

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ORDER :

This Criminal Petition is filed by the Petitioner/ complainant under Section 482 Cr.P.C seeking to quash the order dated 27.04.2015 passed in Crl.M.P.No.555 of 2015 in C.C. No.211 of 2014 on the file of First Special Magistrate at Hyderabad. The said private complaint is outcome of dishonour of cheque said to have been issued by accused in favour of complainant, so the accrual of cause of action under Section 138 of N.I Act read with Section 142 of N.I Act.

2) Heard learned counsel for the petitioner/ complainant as well as 1st respondent—State represented by learned public prosecutor representing before admission and before ordering notice to respondent No.2. Perused the material on record.

3) It is during trial, the petitioner/ complainant filed an application in Crl.M.P.No.555 of 2015 to receive two documents i.e., 1) Statement of bank account of the complainant issued by Bank of Baroda, Masabtank Branch, Hyderabad from 01.04.2012 to 11.04.2015 and 2) the annual returns of Income Tax Department pertaining to the complainant from 2012 to 2015. The learned Magistrate, after counter filed by the respondent/ accused opposing the application and after hearing, dismissed the application saying the so-called income tax returns of 2012 – 2015 admittedly not reflecting the so-called payment by the complainant to the accused for a sum of Rs.57 lakhs

covered by subject matter of dishonour of cheques and there is no whisper in that regard.

4) From the contest also, by referring to expression of the Bombay High Court in ***Sanjay Misra vs Kanishka Kapoor @ Nikki and another***, it is the submission that the income tax returns filed are not reflecting the amount paid but to say that the complainant received the sale proceeds of properties that are reflected in the income tax returns.

5) Regarding his source of income as the accused has disputed the means of the complainant to lend the amount that was encashed by the accused and that was reflected in bank statement that is sought to be received.

6) Having perused the order of learned Magistrate, so far as relating to receiving of the statement of account concerned, it is not covered by any discussion but one on mainly with regard to IT returns.

7) Having regard to the above, instead of remanding the application and directing the learned Magistrate to decide afresh, the petitioner is given liberty to file an application with better particulars for receiving the documents and reopening of her evidence, within the purview of first part of Section 311 Cr.P.C for which the Court may receive or if she can show under Second part, that the same is necessary for pronouncing of judgment, in which the Court shall receive to decide on its own merits.

8) Accordingly, Criminal Petition is disposed of.

9) Miscellaneous petitions, if any pending, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Dt.03.07.2015
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HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

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CRIMINAL PETITION No.5843 of 2015

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Date: 03.07.2015

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