

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.1060 of 2013

ORDER :

The petitioners are A-3 and A-4 of C.C. No.333 of 2012 on the file of I Special Metropolitan Magistrate, Cyberabad, Kukatpally which is outcome of the private complaint of the 2nd respondent Bank for the dishonour of cheque bearing No.190953 said to have been issued by A-2 as Managing Director of A-1 Lancer Life Sciences Private Limited, a Company from statutory notice and statutory waiting for alleged non-payment by accused persons even there is a deemed service from the cause of action accrued and the learned Magistrate therefrom taking cognizance in seeking to quash on the ground that so far as the petitioners A-3 and A-4 concerned even by the time of alleged cheque, A-3 and A-4 no longer directors since as per Form No.32 respectively A-3 and A-4 seized to be the Directors with effect from 02.11.2010 and once they are not the Directors by the time the cheque issued and they are not the drawers of the cheque respectively with the contention of the learned Magistrate erred in taking cognizance against them and the cognizance taken is unsustainable and liable to be quashed. Whereas it is the contention of the learned counsel for the 2nd respondent Bank-complainant that there are allegations and they were actively participating in the affairs of the Company with day to day affairs, management till the so called resignation besides the same is a paper document to get over and thereby they are liable and there is nothing to quash the proceedings and hence to dismiss.

2) Heard and perused the material on record. As per the settled law, more particularly from the catena of the expressions

of the Apex Court, there must be specific allegations in the very complaint of the Directors of the entity even for statutory vicarious liability under Section 141 of the Negotiable Instruments Act be shown responsible for day to day affairs and there must be an allegation as to how they are responsible for day to day affairs as on the date of the cheque issued and alleged dishonour to make them liable to prosecute without which merely because they are erstwhile directors they cannot be mulct with liability and it is also the settled law that any material produced by accused in this regard that can be taken into consideration.

3) Having regard to the above and when there are no specific allegations against the petitioners in the complaint and when the unimpeachable public documentary evidence shows that they ceased to be the directors long before the so called cheque issued by A-1 entity represented by its Managing Director A-2, there is nothing to sustain the prosecution against them, thereby the cognizance taken by the learned Magistrate is unsustainable.

4) Accordingly the criminal petition is allowed and all the proceedings in C.C. No.333 of 2012 on the file of I Special Metropolitan Magistrate, Cyberabad at Kukatpally in respect of petitioners/A-3 and A-4 quashed. The bail bonds of the petitioners/A-3 & A-4, if any, shall stand cancelled. Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:06-01-2016

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