

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.9004 OF 2017

ORDER:

Heard learned counsel for the petitioner/accused of C.C.No.238 of 2017 (old C.C.No.643 of 2016) pending on the file of XV Special Magistrate, Hyderabad, outcome of the private complaint of the 2nd respondent taken cognizance for the offence under Section 138 N.I. Act and also heard the learned public prosecutor, representing the 1st respondent – State, before ordering notice to 2nd respondent – defacto complainant.

2. Perused the impugned docket orders of the learned Magistrate dated 23.11.2016 and 04.08.2017 and the grounds urged in the quash petition.

3. The impugned docket orders of the learned Magistrate, read as follows:

“23.11.2016

Section 256 Petition is filed. Both parties are called absent. Summons of accused by RPAD is returned with endorsement as “Unclaimed”. In view of the Judgement in Petta Satya Govinda Ramachandra Rao @ Babji Vs. Yarlagadda Vijaya Kumar and another, 2016 (1) ALT (CrI.) 25 (A.P.), the due service of summons on him deemed. Hence issue NBW against accused by 28.12.2016.

Sd/-

XV Special Magistrate
Hyderabad

04.08.2017

Complainant present NBW are pending, Issue Fresh NBW to correct P.S. & Home guard by 05.09.2017.

Sd/-
XV Special Magistrate
Hyderabad”

4. There is nothing wrong on the part of the court in issuing N.B.W. from the deemed service of summons as ‘unclaimed’ by the accused and the N.B.W. is pending since 23.11.2016 including by order dated 04.08.2017 of fresh N.B.W. to be issued to the concerned police station for execution, however, the ultimate purpose is to secure his presence and to obtain bond contemplated by Section 88 of Cr.P.C. with or without sureties for his future due appearance to answer the examination contemplated by Section 251 Cr.P.C. and to face trial.

5. Having regard to the above, to sub-serve the ends of justice, this criminal petition is disposed of, directing the petitioner to appear before the learned Magistrate and execute bond as ordered by learned Magistrate under Section 88 Cr.P.C. with or without sureties as the case may be undertaking for future due appearance to face trial.

6. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

22.09.2017
SS