

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.7717 of 2017

ORDER:

Heard the learned counsel for the petitioners/A.1 and A.3 out of four accused in C.C.No.303 of 2008 pending on the file of the learned Spl.Judl. Magistrate of First Class (Proh.&Excise), Kurnool for the offence u/sec.138 of the Negotiable Instruments Act(for short, 'the Act') on the private complaint of the 1st respondent/complainant and also heard the learned Public Prosecutor and perused the grounds urged in the quash petition and other material.

The case against the A.2 was split up dt.06.12.2016 in CrIMP No.2729 of 2016 by the learned Magistrate supra, against which a revision in CrI.R.C.No.9 of 2017 is preferred but the same is dismissed by order, dated 19.05.2017.

Though the Court wants to proceed against the A.1 to A.3, the A.2, it appears out of the country and the process to secure him is not fructified including NBW pending. It is the contention of the petitioner that split up order passed by the learned Magistrate separating the case against the absconding A.2, to proceed against the A.1 and A.3 is basically unsustainable without any satisfaction by the learned Magistrate to comply with the requirement of Rule 20 of the Criminal Rules of Practice.

In fact, even not only from Rule 20 of the CRP but also u/sec.317CrPC, enables the Magistrate and the trial is summary in nature including from the wording of Section 143 of the NI Act, there is nothing to interfere with the proceedings in split up case to take up separately against the absconding A.2 and against whom

the N.B.W. is pending to secure their presence under any due process of law.

Accordingly and in the result, the Criminal Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 04.09.2017
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