

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7484 of 2017

ORDER:

Heard the learned counsel for the petitioner/ Accused of C.C.No.No.69 of 2014 on the file of the Judge, Family Court-cum-VI Addl.Sessions Judge at Khammam, for the offence punishable under Section 138 r/ w 142 IPC, and also heard the learned Public Prosecutor representing 1st respondent-State before ordering notice to the 2nd respondent-defacto-complainant and perused the impugned order of the lower appellate Court in CrI.M.P.No.149 of 2017 in CrI.A.No.128 of 2015 and grounds urged in the quash petition.

The crime is outcome of a private complaint of the 2nd respondent, taken cognizance for dishonour of cheque in question. Against the conviction judgment, the petitioner maintained appeal supra and pending the appeal he filed the petition covered by the impugned order seeking the lower appellate Court to remand the matter to the trial Court for the purpose of enabling him to file application u/ sec.45 of the Indian Evidence Act, to send the cheque in question to compare the handwriting on the cheque with the admitted signature of him but the lower appellate Court dismissed the same supported by reasons.

The impugment is that the dismissal order of the lower appellate Court is unsustainable. In fact from the very wording of Section 391CrPC, it is subject to satisfaction only of such additional evidence is necessary that too recording reasons as mandatory, the additional evidence application is to be allowed and not as a matter

of Course much less no accused as appellant can even ask the appellate Court to remand the matter to trial Court but for to argue the appeal on merits.

For there is even no averments to satisfy the requirements of Section 391CrPC, there is nothing to interfere with the reasoned order of the lower appellate Court impugned herein.

Having regard to the above, the Criminal Petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

Date: 22.08.2017
vvr

JUSTICE Dr. B.SIVA SANKARA RAO

