

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.2214 of 2017

ORDER:

Heard learned counsel for the petitioners/A.1 and 2 in C.C. No.313 of 2016 on the file of I Additional Junior Civil Judge, Narasaraopet, Guntur District.

2) It is one of the contentions of the petitioners that they are no responsible for day-to-day affairs of the company and that there is no allegation to show how they are responsible for its day-today affairs and they are active persons and placing orders for the credit purchase in respect of which cheque in question is issued and, thus, the proceedings are liable to be quashed.

3) The law is fairly settled from the expressions of the Apex Court in **Bhushan Kumar Vs. State (NCT of Delhi)**¹ and **Arvind Kejriwal & Others Vs. Amit Sibal and another**² that even in a summons case or summary trial case, irrespective of a bar for a private complaint case to stop the proceedings under Section 258 Cr.P.C., the accused is entitled by filing application under Section 251 Cr.P.C. to raise all the defences including on sustainability of complaint for the Court to consider.

4) Accordingly and in the result, the Criminal Petition is disposed of by giving liberty to the petitioners to raise all the contentions by filing such an application before the Court by virtue of this order within one week from the date of receipt of a copy of this order. Needless to say, it is also left open to file application under Rule 37 of the Criminal Rules of Practice to consider for one

¹ 2012 (5) SCC 424

² 2014 SCC online Del 212

to represent others and the learned Magistrate, after hearing, shall consider the same with necessary conditions. Since warrants are pending, it is left open to the petitioners to file an application under Section 44 Cr.P.C read with 70 (2) Cr.P.C and it is for the learned Magistrate to recall and obtain bonds with or without sureties as the case may be contemplated by Section 88 Cr.P.C for their future appearances.

5) Pending miscellaneous petitions, if any, shall stand closed.

Date: 22.08.2017
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JUSTICE Dr. B.SIVA SANKARA RAO

