

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE Nos.469, 720, 722, 723, 730, 732,
733, 734, 737, 739 and 740 of 2017

COMMON ORDER :

Heard both sides.

2. The issue involved in these cases is whether there is once an authorization, another authorization to another person, to defend the case without withdrawal of the earlier one can be maintainable.

3. It is the contention of A1 and A2 that the so called certificate of approval dated 16.11.2016 authorizing to defend the institution complainant entity is nothing but unsustainable for no cancellation of the earlier one, authorizing some other person in maintaining the complaints and there cannot otherwise sub-delegation without special mention in this regard to the person authorized by virtue of delegation of powers and in proceedings dated 30.12.1998, there is no such mention.

4. Whereas, it is the submission of the counsel for the complainant/ 1st respondent in all the cases that there is no authorization or sub-delegation and the witness is deposing independently as PW.3 in all the cases.

5. To decide the same, it is necessary to refer the affidavit of the said PW.3 by name K.Ravi Prasad in all the cases. The first para refers to not only he got knowledge of the transactions and deposing there from, but also in saying as duly authorized representative of the complainant entity by virtue of the delegation of powers by approval, to file the affidavits referring to the certificate of approval of the entity dated 16.11.2016. If he deposes as a witness from what he knows is one thing for which no even summons required to secure a witness on own by the complainant. It is not the case herein as such from reading of the affidavit petitions. There was already delegation of powers referred in the proceedings dated 30.12.1998 under which to maintain complaints and to prosecute the cases another person was duly authorized and same is in force. Thus, without cancellation of the same, the question of empowering another person to intrude into that earlier authorization does not arise as also held in this regard by the Constitution Bench of the Apex Court in A.C.Narayanan v. State of Maharashtra and another¹, particularly at paras 33.1 to 33.5.

6. Having regard to the above, the affidavits filed by virtue of authorization without cancellation of the earlier authorization since cannot be sustained and the affidavits

¹ (2014)11 SCC 790

since not taken on oath, same are cancelled and eschewed with no evidentiary value to those affidavits to take on oath, however, by giving liberty to the complainant if at all the witness wants to depose independently from what he knows of the transactions to simply file separate evidence affidavits with those facts, within the purview of Section 145 of the Negotiable Instruments Act, 1881 (for short 'N.I.Act').

7. Accordingly, all the Criminal Revision Cases are allowed in part to the above extent. Needless to say, the lower Court may proceed with the case for early disposal by virtue of the mandate of Section 143 of the N.I.Act.

8. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

Date:13-04-2017
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