

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2595 OF 2016

ORDER:

The Criminal Revision Case is filed against the order dated 01.09.2016 passed in CrI.M.P. No.2204 of 2016 on the file of IV Additional Chief Metropolitan Magistrate, Hyderabad.

2) Heard both sides.

3) Unless it is shown, even by virtue of this order, before the trial Court, atleast hereafter, that the document is not liable for stamp duty, the original alone is to be impounded within the meaning of instrument under Section 2 (14) of the Indian Stamp Act, 1899 (for short 'the Act') and said document cannot be marked even original, if it is not duly stamped. Though at the time of marking, no objection raised by the prosecution on stamp duty requirement, for that relied by the accused in defence evidence, it is the duty of every Court or other authority before marking to impound as per Section 33 of the Act and though subsequently, in the same proceeding, the other side cannot raise objection for the document already marked with no objection on insufficiency of stamp duty, Section 36 of the Act is very clear that there is a remedy of revision under Section 61 of the Act. Thus, the present revision filed by prosecution witness—PW.2, claiming that he being effected by such marking of insufficiently stamped document, the revision is maintainable. This Court in *Buddha Jagadeeswara Rao vs Ravi Enterprises*¹, after scanning the entire case law in this regard particularly from para No.22 and also

¹ 2017 (2) ALT 736

by referring to the expression of the Apex Court in *Chilakuri Gangulappa vs RDO Madanapalli*². As per which said document if it is liable to be impounded before the learned Magistrate, for the accused, if at all, to rely. Even exhibited otherwise, it is not to consider at all, by virtue of this order, but for remedy is to ask for referring the original document to the District Registrar for impounding by following the procedure contemplated under Sections 37 to 42 of the Act and as laid down in the expressions supra.

4) With these observations, the Criminal Revision Case is allowed.

5) As a sequel, miscellaneous petitions if any pending shall stand closed.

Dt.21.04.2017
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Dr. B. SIVA SANKARA RAO, J



² AIR 2001 SC 1321

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Date:21.04.2017

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