

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7902 of 2017

ORDER:

Heard learned counsel for the petitioner/accused of C.C.No.539 of 2016 pending on the file of learned Special Judicial Magistrate of First Class for Prohibition & Excise, Kurnool, where the learned Magistrate has taken cognizance for the offence punishable under Section 420 IPC, based on the private complaint of the 2nd respondent-defacto complainant, which is in relation to the cheque dishonour case and as can be seen from the docket proceedings right from, 13.04.2017 till 02.08.2017 in adjourning the matter to 04.09.2017 it is posting for examination of the accused. Needless to say it neither a summary trial nor summons case even on private complaint for Section 251 Cr.P.C. examination of the accused by supply of copies under Section 207/208 Cr.P.C., but for private warrant procedure contemplated by Section 244 Cr.P.C. onwards and as per Section 244 at the post cognizance stage after securing appearance of the accused, there must be prosecution evidence before framing of charges and accused also got a right at the pre-charge enquiry/trial either to cross-examine any witness or seek for differing the same if at all to do in the event of framing of charges by securing them and once such is the case, the question of examination does not arise without framing of charges.

Having regard to the above, the petition need not be kept pending, but for with that direction to the trial Court to follow the said private warrant case procedure strictly according to 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: 29.08.2017
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