

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.5528 of 2017

ORDER:

Heard learned counsel for the petitioner/accused of C.C.No.281 of 2016 on the file of XIX Special Magistrate Court, Erramanzil, Hyderabad, for the offence under Section 138 of Negotiable Instruments Act and Smt. R. Madhavi Latha, learned counsel for the 2nd respondent and also learned Public Prosecutor representing the 1st respondent-State and perused the interim order passed by this Court on 12.07.2017 in CrI.P.M.P.No.5560 of 2017 and the contentions raised in the quash petition and the private complaint averments from which the learned Magistrate taken cognizance.

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.

Accordingly and in the result, the Criminal Petition is disposed of by giving liberty 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. The petitioner claims that he is working in Dubai and it is difficult for

¹ 2012 (5) SCC 424

² 2014 SCC online Del 212

him to appear personally for every adjournment, accordingly liberty is given to file application under Section 205 Cr.P.C. for the lower Court to consider and pass with necessary conditions.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 02.08.2017
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