

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.275 of 2014

ORDER:

The de-facto complainant Smt. Samudrala Padmaja maintained the complaint against 8 accused – Sriram Chits Limited, Sriram Investments Limited, Sriram Transport Finance Company Limited, Sriram Transport Finance Company Limited and Sriram City Union Finance Limited, respective officials, or entities as the case may be, for the offences under Sections 403, 406 and 409 IPC. The learned Magistrate initially referred the said private complaint to the Police for investigation under Section 156(3) of the Code of Criminal Procedure, 1973, and the Police after investigation filed final report with intimation to the de-facto complainant, including the Court and the same is referred for non-cognizable offence against the accused. The same resulted in the accused raising protest and the learned Magistrate therefore has taken the same as a private complaint by procedure contemplated under Sections 200 to 204 Cr.P.C., and taken cognizance for the offences supra against 8 accused. It is pursuant to the same when summons were issued under Section 204 Cr.P.C., for the appearance of the accused supra, they it appears claimed innocent and the impugned order dated 07.02.2014 was passed consequently at the post-cognizance stage in C.C.No.560 of 2009.

2. The impugned order speaks that if the respective accused persons are innocent and if they are not responsible for the affairs of

the entities, they have to show who were the Managing Directors or the persons responsible for managing the affairs of the entities at the relevant time.

3. The Regional Manager of Sriram Chits Ltd., Branch Manager, Sriram Chits Ltd., and the Branch Manager, Sriram City Union Finance Company Ltd., maintained the revision, saying that they are entitled to say that they are innocent and there is procedure contemplated at the post-cognizance stage if at all to pass any order discharging them under Section 245 (2) Cr.P.C., unless the learned Magistrate had chosen to conduct a pre-charge enquiry, requiring the prosecution to adduce evidence with right of accused to defer cross-examination or to do cross-examination and to frame charges therefrom if at all there is any material, else to discharge and beyond that, the order is unsustainable, more particularly, either to direct them to furnish the particulars as to who were respective persons responsible for the day-to-day affairs at the relevant time or to make them liable as if they are abettors otherwise.

4. It is the submission of the learned counsel for the revision petitioners, by reiterating the same, referring to various provisions of the Cr.P.C., in seeking to set aside the impugned order. Whereas, it is the submission of the learned counsel for the complainant that the order holds good.

5. Having regard to the above, the impugned order is since unsustainable, for not an order including under Section 245(2) Cr.P.C., of discharge at the pre-charge stage without even enquiry; there can be no compulsion against any of the accused either to disclose who were respective Managing Directors or the persons responsible for the day-to-day affairs at the relevant time, or for the failure, to book them as abettors for the offences, same is liable to be set aside.

6. Accordingly, and in the result, the order to the above extent is set aside and the learned Magistrate is directed consequently to proceed further in accordance with law, to conduct pre-charge enquiry.

7. The revision is accordingly allowed.

Miscellaneous petitions if any pending in the revision stand closed.

March 21, 2017
MRR

Dr. B. SIVA SANKARA RAO, J