

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.847 of 2017

ORDER:

Aggrieved by the order dated 28.12.2016 in CrI.M.P.No.1328 of 2016 in C.C.No.446 of 2012 passed by the III Additional Chief Metropolitan Magistrate, Visakhapatnam at Gajuwaka, this Criminal Revision Case is filed by the petitioner/ accused.

Proof of service through track record filed showing notice served on the 2nd respondent. But he failed to attend and hence taken as heard. Heard and perused the impugned order.

The reply notice and also the cross examination of PW.1 by the accused/ petitioner in seeking to send only the promissory note to the hand writing expert, is the cheque and promissory note are forged and though it is silent in the reply notice, in the cross examination of PW.1 developed the version of the cheque lost and account closed, taking advantage of securing the last cheque leaf it is misused and the signature on the cheque and promissory note are not that of the accused and those are forged and fabricated documents. When such is the case, the presumption under Section 139 of the Negotiable Instruments Act, 1881, for legally enforceable debt or other liability is available if at all the signature on the cheque

rooted from his account admitted, without sending the cheque to handwriting expert, when equally disputing of the signature is not that of the accused, it has served no purpose. From that hearing and at this stage, the petitioner wants to file a fresh petition.

Having regard to the above, this Criminal Revision Case is disposed of giving liberty to the petitioner to file a fresh application before the lower Court, if at all required to send the cheque and promissory note to the handwriting expert with all contemporary relevancy or other admitted and available signatures including his signature at the time of opening of bank account and other material, for the Court to consider in recognition of the valuable right of the defence of the accused, that cannot be curtailed, but for, necessary reasons as per the settled expressions of the Apex Court and of this Court including in CrI.R.C.No.2936 of 2016.

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

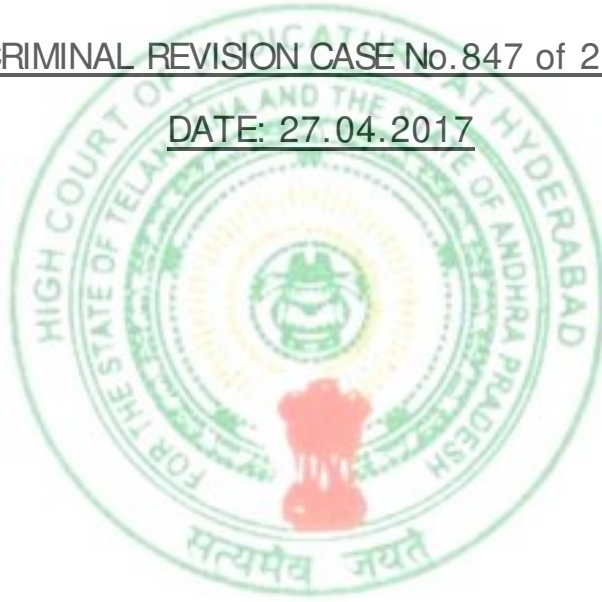
Date:27-04-2017
pab

Dr. B. SIVA SANKARA RAO, J

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.847 of 2017

DATE: 27.04.2017



pab