

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.16260 of 2016

ORDER:

Heard learned counsel for the petitioner/accused and Sri Maheswar Rao Kuncham, learned counsel for the 1st respondent-complainant also learned Public Prosecutor representing the 2nd respondent-State and perused the grounds urged in the quash petition seeking to quash the proceedings of the pending C.C.No.420 of 2015 on the file of learned XXV Special Magistrate, Hyderabad, for the offence under Section 138 of Negotiable Instruments Act (for short 'the Act').

The core contention is that from the date of accrual of cause of action, the complaint is not filed within one month and there is no application to condone the delay in filing as contemplated by Section 142 (b) proviso of the amended Act No.55/2002 w.e.f. 06.02.2003.

Having regard to the above and from perusal, prima facie the complaint is not filed within 30 days to the date of accrual of cause of action.

Accordingly and in the result, the Criminal Petition is allowed by setting aside the cognizance order, however by reverting back to the position prior to taking cognizance, by giving liberty to the complainant if at all to file application, within one week from the date of receipt of a copy of this order, before the trial Court to decide on own merits to condone the delay justified or not and any taking of cognizance is subject to the result of that.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 01.08.2017
ska

