

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2786 of 2016

ORDER:

Heard both sides.

Perused the impugned order of the lower Court dismissing the private complaint case for the offence under Section 138 of the Negotiable Instruments Act on the pre-cognizance stage under Section 203 Cr.P.C. with the observation that complainant has no locus as claiming as guardian of her deceased husband in whose name the cheque was shown issued prima facie. Even there is O.P.No.27 of 2011 order dated 11.10.2011 by the Principal District Judge, East Godavari District at Rajahmundry, under Mental Health Act appointing her guardian, as her status as guardian changed to legal heir and it is not her case in the complaint that as a legal heir, she is entitled to maintain the complaint. Thereby the learned Magistrate dismissed complaint as such for this Court while sitting in revision there is nothing to interfere, but for the same is not bar under Section 300 Cr.P.C. even much less under Article 20 of Constitution of India to maintain a fresh complaint if at all filed within one from the date of receipt of this order for the Court to entertain without reference to the period of limitation.

Subject to the above observation, the criminal revision case is disposed of.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 19.01.2017
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