

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.535 OF 2018

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner-*de facto* complainant seeking to set aside the order dated 12.12.2017 passed in CrI.M.P. No.69 of 2017 in C.C. No.76 of 2014 on the file of the XII Special Magistrate, Erramanzil, Hyderabad.

2. Heard the learned counsel for the petitioner-*de facto* complainant, learned Assistant Public Prosecutor representing the 1st respondent-State and the learned counsel for the 2nd respondent-A.1 and perused the record.

3. Learned counsel for the petitioner-*de facto* complainant would submit that the Court below erred in not impleading respondent No.3 herein as A.2 in the impugned C.C. No.76 of 2014; that the Court below did not appreciate the facts and circumstances in proper perspective, which rendered miscarriage of justice; and ultimately, prayed to set aside the impugned order and allow the petition filed by it before the Court below.

4. On the other hand, learned counsel for respondent No.2-A.1 opposed the relief prayed in this revision.

5. In view of the contentions raised on behalf of both sides, the point for determination is, whether the impugned order is liable to be set aside?

6. Without following the procedure contemplated under Sections 138 and 142 of the Negotiable Instruments Act, no cognizance is

required to be taken for the offence punishable under Section 138 of the Negotiable Instruments Act. In the circumstances of the case, when a complaint is filed against the accused alleging dishonour of cheque issued for payment of legally enforceable debt, pending adjudication of the complaint, the proposed accused No.2 cannot be made party to the impugned proceedings in C.C. No.76 of 2014, with the aid of Section 319 Cr.P.C. The Court below had appreciated all the facts and circumstances of the case and rightly dismissed the impugned miscellaneous application. There is no miscarriage of justice. The revision is devoid of merit and it is liable to be dismissed.

7. In the result, the Criminal Revision Case is dismissed. The petitioner is at liberty to work out the remedies available under law. Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

Date: 09-04-2018

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Dr. SHAMEEM AKTHER, J

