

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION Nos.12703 and 5441 of 2017

COMMON ORDER :

M/s.Kineta Global Limited, represented by its Director V. Balashowry and said V. Balashowry individually from the array as A.1 and A.2 in the private complaint of the 2nd respondent entity M/s.Navayuga Engineering Company Limited, represented by its GPA holder S.Nandapurkar, filed CrI.P.No.12703 of 2017 impugning the very cognizance of the private complaint case taken for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') by the learned Magistrate pending with the VII Special Magistrate, Erramanzil.

2. CrI.P.No.5441 of 2017 filed by A.3 of the said criminal case, by name, Bhanumathi, W/o.V. Balashowry, in seeking to quash the said proceedings.

3. Heard learned counsel for the petitioners and learned counsel for the *de facto* complainant/respondent No.2 entity and the learned Public Prosecutor and perused the material on record.

4. There are several factual aspects to be dwelled into by recording evidence as to from the so-called cheque in question signed on behalf of A.1 not by its director Balashowry, but for the so-called authorized signatory A.3-Bhanumathi can be enforced against A.1 to A.3 together and also on other contentions raised, this Court cannot

readily quash the proceedings, but for left open all the defences to raise during trial for the trial Court to consider.

5. With these observations including from the difficulty expressed of personal appearance of accused for every adjournment, remedy is by left open to the petitioners to file for one to represent the others under Rule 37 of the Criminal Rules of Practice or to file Special Vakalat application under Section 205 Cr.P.C., for the trial Magistrate to consider, but for personal appearance in such consideration to the 313 Cr.P.C. examination as even Section 251 Cr.P.C. examination can be conducted on the special Vakalat holder.

6. With these observations, both the criminal petitions are disposed of.

Miscellaneous petitions pending, if any, shall stand closed in both the criminal petitions.

Dr. B. SIVA SANKARA RAO, J

30th October 2018.

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