

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.1511 of 2014

ORDER:

Heard learned counsel for the petitioners and learned Public Prosecutor representing the 1st respondent-State and learned Counsel for the 2nd respondent.

The contentions in the quash petition filed by accused Nos.3, 4 & 5 among 5 accused including A.1 entity and the A.2 so called Managing Director or otherwise drawer of the 3 cheques in question that were later presented returned dishonoured and from the statutory notice and from cause of action accrued within time filed the complaint case, by impugnement that they are no way responsible for the day to day affairs of the company and the so called issuance of cheques were alleged on 15.11.2011, 01.12.2011 and 13.12.2011 respectively as if by A.2 on behalf of the A.1 entity whereas A.2 resigned from A.1 entity even prior to that and thereby the question of his issuance of cheques on behalf of A.1 entity much less to fasten any liability on accused Nos.3 to 5 as if they are Directors responsible for the day to day affairs invoking Section 141 of the Negotiable Instruments Act for the liability under Section 138 of the Act does not arise.

In fact, it involves factual disputes that require to be enquired into. Thereby the remedy is left open under Section 251 Cr.P.C. to file such petition during trial or before commencing trial, for the trial Court to decide as per the

expression of the Apex Court in **Bhushan Kumar Vs. State (NCT of Delhi)**¹.

Accordingly and in the result, this Criminal Petition is disposed of by left open all defences and the remedy is left open to the petitioner if at all to file an application under Rule 37 of the Criminal Rules of Practice for one to represent others meantime by virtue of this order.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 25.10.2018
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¹ (2012) 5 SCC 424