

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.5411 of 2018

ORDER :

The petitioner is A.3 among four accused in C.C.No.521 of 2016 on the file of the Judicial First Class Magistrate (Mobile Court), Eluru, West Godavari District, out come of private complaint of the 2nd respondent, taken cognizance for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short, the NI Act'). Among A.1 to A.4, A.1 is Satinder Singh, Wing Commander (Retired) referred as General Manager of Scorpio Securities, A.2 is Syed Shadab Anis referred as Director of Scorpio Security Services, A.3 is M.Sahanawaz also referred as director of Scorpio Security Services and A.4 name not mentioned, but as General Manager, Scorpio Securities. So far as A.1 and A.4 concerned, earlier quash petition filed was covered by the order of this Court quashing the cognizance order against them in CrI.P.No.4306 of 2017, dated 15.09.2017, where it is observed that A.1 is not shown as signatory for the cheque issued by the entity Scorpio Securities and at para 6, it is also observed that even as General Manager of the Scorpio Securities A.1-Sri Satinder Singh to be made liable, the very Scorpio Securities entity not impleaded, without the entity the question of vicarious liability to the General Manager or Director does not arise and for that conclusion referred the expression of the Three Judge Bench of the Apex Court in

Aneeta Hada (II) v. Godfather Travels & Tours (P) Ltd.¹
particularly referred in para 59 and same referred and relied including
the subsequent expression in **Narendra Kurangi and others v.**
Greenmint India Agritech (P) Limited, Hyderabad and Another².

2. Having regard to the settled law of the Apex Court's that
without the impleadment of the entity as accused for the cheque
issued by the entity, the question of vicarious liability of any Director
or General Manager either individually or in the capacity as General
Manager does not arise. Thereby, the proceedings insofar as
petitioner/A.3 equally A.2 not even party also goes and accordingly,
the cognizance order of C.C.No.521 of 2016 quashed. It is now
mentioned that the cheque was signed on behalf of the entity by A.1,
even then the earlier order no way requires review, in view of para 6
of the order in Crl.P.No.4306 of 2017 without impleadment of entity
the question of vicarious liability of the drawer of the cheque on
behalf of the entity does not arise, for not the drawer individually.
Hence, any other remedies available under law to the complainant are
left open.

3. Accordingly, the criminal petition is allowed quashing the
proceedings not only against the petitioner/A.3 but also against A.2 in
C.C.No.521 of 2016 on the file of the Judicial First Class Magistrate

¹ (2012) 5 SCC 661

² 2016 (1) ALD (Crl.) 177

(Mobile Court), Eluru, West Godavari District. The bail bonds of A.2 and A.3 shall stand closed.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

13th November 2018.

mar

