

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.10247 of 2018

ORDER:

The petitioner is accused No.1 in C.C.No.144 of 2018 on the file of learned II Special Metropolitan Magistrate, Ranga Reddy District, which is outcome of the private complaint of the 2nd respondent for the offence under Section 138 of Negotiable Instruments Act for the dishonour of the cheque bearing No.000019 for Rs.5,00,000/- drawn on Andhra Bank on 27.10.2016 signed by the petitioner as A.1 drawer.

It is the contention that the amount borrowed was by the hospital entity, whereas the cheque issued was by petitioner-A.1 in his individual capacity and without impleading the entity the question of his liability does not arise. It is not on the cheque book of the entity to say he issued the cheque on behalf of the entity, for the entity to be impleaded primarily to fix vicarious liability on the petitioner also under Section 141 of the NI Act much less to contend therefrom without adding the principal entity, the question of vicarious liability of the petitioner, who signed on behalf of the entity does not arise by following the three Judge Bench expression of the Apex Court in **Aneeta Hada v. M/s. Godfather Travels & Tours Private Limited**¹. As he is the drawer of the cheque undisputedly, whether the cheque is supported by a legally enforceable debt or not is a matter of

¹ (2012) 5 SCC 661

trial depending on the factual disputes to be adjudicated so also the contention of the signature on the cheque of him allegedly obtained by force.

With these observations, this Criminal Petition itself is disposed of by left open entire defence before the trial Court if at all from the submission of personal difficulty to appear every adjournment liberty is given to approach the trial Court under Section 205 Cr.P.C. to represent through special vakalat holder.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 05.11.2018
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