

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.11485 of 2018

ORDER :

The petitioners are A.1 to A.7 in C.C.No.1016 of 2017 on the file of XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, (Old C.C.No.270 of 2013 before V Additional Chief Metropolitan Magistrate, and earlier C.C.No.22 of 2013 before the self same XVII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad), it is out come of the private complaint of the 2nd respondent for the offence under Section 138 of the Negotiable Instruments Act, taken cognizance for the dishonour of the cheque against A.1-entity a Trust and A.2 to A.9-members of the Trust including in the Executive Committee, if any.

2. One of the contentions in the present quash petition is that as per the settled expressions reiterated by this Court in **Narendra Korangi and others v. Greenmint India Agritech (P) Limited, Hyderabad and another¹**, mere allegation of responsibility for day-to-day affairs is not enough in the absence of specifically averring in the private complaint as to how they are responsible to the day-to-day affairs to fasten the vicarious liability along with the entity on any of its members or others concerned, thereby the proceedings so far as against the petitioner Nos.1 to 7, who are A.3 to A.9 of the C.C. supra, liable to be quashed.

¹ 2016(1) ALD (CrI.)177

3. There is a stray sentence in the quash petition averments though not brought in the course of hearing of earlier Crl.P.No.5262 of 2013 filed by A.3 to A.8 before another Bench of this Court and the same was disposed of by dispensing with the presence of A.3 to A.8 of the case except on the dates when the presence is specifically required by the trial Court, learned Magistrate is directed to complete the trial expeditiously within three months or so. So far as A.1 and A.2 concerned, similar petition to the present one in Crl.P.No.16574 of 2014 filed was ended in dismissal as infructuous, by order, dated 20.04.2017, from the submission on behalf of the petitioners. Though there is force in the contention of the learned counsel for the petitioners in view of the earlier disposal of similar petition dispensing the presence of A.3 to A.8, but for specifically required by the trial Court, this Court is not able to sit again against said order, much less to review the same, but for to face trial.

4. So far as NBW stated pending, the petitioners are given liberty to appear before the learned Magistrate and learned Magistrate shall recall and the order referred supra of dispensing with their presence unless specifically required holds good till end of trial subject to the above.

5. Accordingly, the criminal petition is disposed of. All defences are left open.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

16th November 2018.

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