

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.11492 of 2018

ORDER:

The petitioners are A1 to A4 in Crime No.147 of 2018, outcome of the report of respondent No.2-*de facto* complainant, registered by the Nellore III Town Police Station, SPSR Nellore District, registered for the offences punishable under Sections 406, 420, 468 and 471 IPC.

2. The accused entity represented by its Managing Director Pyarelal Kedia filed a private complaint case for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 for the alleged dishonour of cheque bearing No.897128 for Rs.50,000/- dated 16.02.2016 drawn on the State Bank of India, China Bazar, Nellore said to have been issued by Pandu Ranga Rao, who is the *de facto* complainant in the present quash petition covered crime and when the cheque presented, returned dishonoured from the statutory notice acknowledged with no reply, filed the cheque bouncing case in July 2016 and after service of summons said Pandu Ranga Rao, who is the drawer of cheque as A2 among three accused including A3-P.V.Ramana Murthy, Purchase Manager and A1 entity- Annapurna Rice Traders.

3. Practically a proprietary concern and not a partnership entity and the cheque bouncing case was taken cognizance as C.C.No.28 of 2017 by the learned II Additional Chief Metropolitan Magistrate,

Nampally at Hyderabad and later transferred and now pending as C.C.No.9 of 2017 on the file of the learned III Special Magistrate, Hyderabad. It is more than one year after the cheque bouncing case filed and served summons therein and one year two months after service of notice of the dishonour of cheque with no reply, the present report in registration of crime as if the old cheque was misused in filing the case that was entrusted in the dealings as security without return even the amount was liquidated for the alleged offences of breach of trust and cheating and using as genuine a forged blank signed unfilled cheque.

4. In fact, the matter was coming for cross-examination of DW1 in the cheque bouncing case by posted to 30.07.2018 in C.C.No.9 of 2017 from the earlier adjournment of cross-examination in part on 11.07.2018. It is in between the report given on 28.07.2018 supra. Leave about the fact that it is a premature that too when the cheque bouncing case is pending for trial accepting the defence therein and such defence always open to the accused in the cheque bouncing case. There is nothing for not giving of reply with the defence if at all and even that does not tantamounts to admission of the cheque dishonour notice, there is nothing to wait for more than one year.

5. Having regard to the above, the present crime proceedings in C.C.No.147 of 2018 of Nellore III Town Police Station, SPSR Nellore District, are hereby quashed. However, it will not prejudice the rights of the *de facto* complainant after disposal of the cheque bouncing case

if at all to give any report or to file any private complaint for appropriate provision of law.

Accordingly and in the result, this Criminal Petition is allowed.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

27.11.2018
MVA

