

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.11593 of 2018

ORDER:

It is not the case of prosecution in filing the petition invoking Section 311-A Cr.P.C. in CrI.M.P.No.1706 of 2018 before the learned Junior Civil Judge-cum-Judicial Magistrate of First Class, Pakala, Chittoor District that A4 & A5, whose specimen signatures or handwriting or thumb impressions sought for, are in judicial custody are once arrested at any point of time earlier to it in connection with the crime on hand registered by Kalluru Police Station, Chittoor District as Crime No.30 of 2018 registered for the offences punishable under Sections 465, 468, 420, 120-B IPC. In the absence of such prerequisite as per the proviso to Section 311-A Cr.P.C. the order of the learned Magistrate in directing to subscribe the specimen signatures or handwritings no way survives, as discussed in the order of this Court in CrI.P.No.15368 of 2016 dated 27.11.2018 referring to the expression of this Court in **Mr. Amit Khetawat v. State of Telangana** where elaborately discussed the legal position right from the Constitution Bench expression of the Apex Court in **State of Bombay v. Kathi Kalu Oghad**¹ among other including what made to introduce Section 311-A Cr.P.C. is the outcome of the Law Commission recommendation from the Apex Court's observation in **State of Uttar Pradesh v. Ram Babu Misra**².

¹ AIR 1961 SC 1808

² AIR 1980 SC 791

2. With the above observations, this Criminal Petition is allowed and the order in Crl.M.P.No.1706 of 2018 dated 04.10.2018 passed by the learned Junior Civil Judge-cum-Judicial Magistrate of First Class, Pakala, Chittoor District is set aside. In the event of arrest or their surrender and execution of the bonds, if any, remedy is left open afresh to the police for the same is not a bar.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

28.11.2018
MVA

