

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.10145 of 2017

ORDER:

The petitioner is the accused in C.C.No.304 of 2017 on the file of the Addl.Judl.Magistrate of First Class, Bapatla, Guntur district outcome of the private complaint of the 2nd respondent/complainant, taken cognizance for the offence under Section 138 of the Negotiable Instruments Act by the learned Magistrate supra.

The contentions in the quash petition of the accused are that the so called cheque allegedly issued by the accused bearing No.718383 drawn on Punjab National Bank, Sultanshahi Branch, Hyderabad, was not issued by him and the signature as S.Uday is also not that of him much less issued and signed on 30.01.2017. It is also the contention of the petitioner that the complainant suppressed the factum of the reply notice dt.20.04.2017 issued by him by not mentioning in the documents enclosed to the complaint as 1 to 6 and by referring in the complaint particularly at para-4 of only with regard to service of notice but not referring to reply given or not. It is also his contention that he addressed a letter to the Panjab National Bank where he was having account to furnish serial numbers of the cheques of the cheque book issued to him so far and the bank issued letter dt.19.04.2017 stating that the cheque book obtained by him on 24.11.2016 was from the cheque Nos.869971 to 869990 and with S.Nos.915501 to 915600 on 14.03.2017 and those are no way correlated to the alleged cheque covered by the complaint bearing No.718383.

The above are the disputed aspects before the trial Court. Thereby the remedy is left open to the petitioner to file an application under Section 251 CrPC for the learned Magistrate to decide the

sustainability of the criminal proceedings whenever occasion arises pursuant to the expressions of the Hon'ble Apex Court in ***Bhushan Kumar Vs. State (NCT of Delhi)***¹ and ***Arvind Kejriwal & Others Vs. Amit Sibal and another***². The petitioner is at liberty, if at all any difficulty in appearance on every adjournment, to invoke Section 205CrPC for the learned Magistrate to consider with necessary conditions.

In the result, the Criminal Petition is disposed of. Pending miscellaneous petitions, if any, in this Criminal Petition, shall stand closed.

Date:30.10.2018
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Dr. B.SIVA SANKARA RAO J,



¹ 2012 (5) SCC 424

² 2014 SCC online Del 212