

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION Nos.6061 of 2013 & 13793 of 2018

COMMON ORDER:

Heard both sides.

The main contention is that the petitioner/A.2 wrongly arrayed for he is not signatory to the cheque and a perusal of the cheque in question shows one Sandeep Shah and in the complaint falsely implicated Sandeep Shah @ Bhavik Bharat Kumar Parikh though he was never called as Sandeep Shah and thereby the proceedings against him are liable to be quashed. In fact it is a factual dispute to be adjudicated with reference to the facts before the trial Court if necessary during progress of trial.

Thereby the remedy is left open by disposing of both the Criminal Petitions to file an application under Section 251 Cr.P.C., even Section 251 Cr.P.C. already completed by virtue of this order and from the expression of the Apex Court in **Bhushan Kumar & Anr vs State(Nct Of Delhi)**¹. Consequently the NBW issued by the learned XIV Special Magistrate, Erramanzil, is cancelled and the petitioner is directed to appear before the trial Court and if not already executed the bonds, shall execute bonds under Section 88/89 Cr.P.C. by due appearance in future.

¹ AIR 2012 SC 1747

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 24.12.2018
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