

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CRIMINAL REVISION CASE Nos.55, 62 and 63 of 2019

COMMON ORDER :

The petitioner is the accused in C.C.No.216 of 2017, out come of the private complaint filed by the 2nd respondent for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the N.I.Act') that was taken cognizance and the petitioner is put to trial, the trial was in progress after completion of the evidence of the accused/petitioner as DW.1, the matter came for arguments and arguments of the learned counsel for the complainant were completed and when coming for the arguments of the petitioner/accused representing through counsel, leave about earlier filed two applications in CrI.M.P.Nos.4857 and 4858 of 2018 to reopen and to summon the Bank Manager, that were ended dismissal, the three petitions in CrI.M.P.No.3507, 3508 and 3506 of 2018 filed, one is to recall DW.1/accused, other one is to receive the certificate issued by the Bank (drawer's bank) to exhibit and other one is to reopen, those were ended in dismissal saying it is nothing but to drag on the proceedings having went unsuccessful in the earlier two petitions with no bonafides. Same is the impugment.

2. Heard both sides.
3. It is premature for the Court to go into the relevancy and admissibility without even document came before it to exhibit and if at all raised any objection for relevancy and admissibility, for nothing touching stamp duty and registration, same is to be marked subject to objection regarding relevancy, admissibility and proof, if any, as laid

down by the Three-Judge Bench expression of the Apex Court in **Bipin Shantilal Panchal v. State of Gujarat and another**¹. Once such is the case, when that is the document that too as part of the valuable defence evidence, the trial Court should have been allowed at best by imposing costs.

4. Having regard to the above, all the three revision cases are allowed by reopening the evidence of the accused, permitting recall of the accused only to the extent of exhibiting the document since received and to speak facts anything in relation to the document and nothing beyond in the further examination, that too, subject to costs of Rs.10,000/- (Rupees ten thousand only) payable to the Army Welfare Fund and filing of proof within one week from the date of receipt of the order before the lower Court and in the event of non-filing, the order ceases its force confirming the order of the lower Court for all purposes without further reference and on such proof filed within one week, the Court permit by receiving the document for further examination of DW.1 within the scope supra and nothing beyond and to complete said evidence only within one week subject to Court convenience.

Miscellaneous petitions pending in all the three revisions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

20th February 2019

Note:

Issue C.C. tomorrow.

(b/o)

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¹ AIR 2001 SC 1158