

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.2579 OF 2018

ORDER :

The petitioner is the 2nd accused among two accused in C.C.No.116 of 2016 on the file of VII Additional Chief Metropolitan Magistrate, Hyderabad that was transferred later for trial to the XII Special Magistrate, Erramanzil, Hyderabad and is pending. It was earlier pending before XI Metropolitan Magistrate, L.B. Nagar, Ranga Reddy district in C.C.No.699 of 2016.

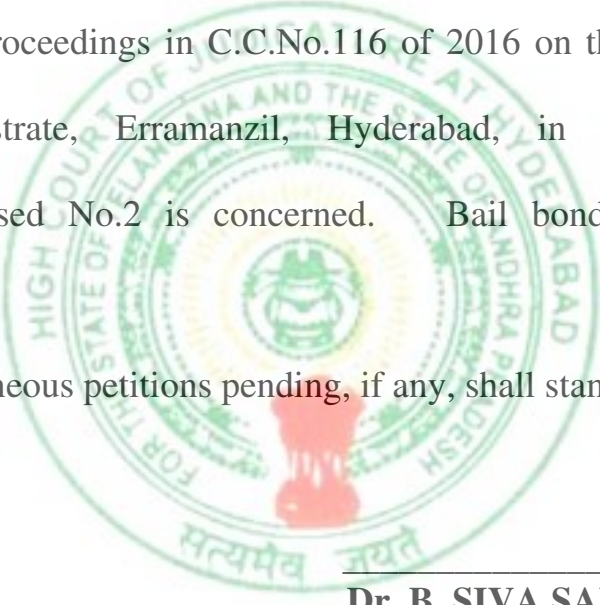
2. It is the submission of the learned counsel for the petitioner that the said Calendar Case before the learned Magistrate is now pending as C.C. 116 of 2016. The said case is registered for the dishonour of the so called cheque bearing No.082705 dated 18.5.2016 drawn on State Bank of India, Karmanghat Branch, Hyderabad for Rs.2,00,000/- when presented, for which, after statutory notice failed to pay. Undisputedly, from the averments of the complaint made by the complainant, it is seen that Accused No.1 borrowed an amount of Rs.2,00,000/- covered by promissory note and Petitioner/Accused No.2 is said to have accompanied Accused No.1 for the said borrowal of the amount covered by the promissory note and stood as guarantor. Petitioner/Accused No.2 is not the drawer of the cheque to make him liable. Even notice sent to the complainant/2nd respondent is returned unclaimed as “party left” and the notice sent to the Advocate of the complainant/2nd respondent returned as “insufficient address.” Hence, service is held sufficient.

3. Heard learned counsel for the petitioner/Accused No.2 and the learned Public Prosecutor and perused the material on record.

4. From the perusal of the averments it is seen that the very complaint itself shows that the petitioner/Accused No.2 is neither liable with vicarious liability nor drawer of the cheque. Therefore, the question of taking cognizance against him and continuing the proceedings does not arise.

5. Having regard to the above, the Criminal Petition is allowed by quashing the proceedings in C.C.No.116 of 2016 on the file of the XII Special Magistrate, Erramanzil, Hyderabad, in so far as the petitioner/Accused No.2 is concerned. Bail bonds, if any, stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.



Dr. B. SIVA SANKARA RAO, J

Date: 3.1.2019.

KPM