

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.2905 OF 2018

ORDER :

The petitioner is the complainant in C.C.No.26 of 2016 on the file of the XII Special Magistrate, Erramanzil, Hyderabad. It is the outcome of the private complaint of the petitioner/complainant against more than four accused which includes Accused No.1 entity represented by its Managing Director Shivakumar Malghan who is no other than Accused No.2 and the others are Directors. The case against Accused Nos. 3 and 4 is separated and re-numbered as C.C.No.317 of 2018 while proceeding with the present C.C.No.26 of 2016 against Accused Nos. 1 and 2.

2. It is during trial in the evidence of PW1 while marking documents after Exs. P1 to P4 are marked, with regard to one of the documents which is said to be the postal cover addressed to M/s. Sovereign Industries Limited (A1) represented by its Directors, registered office at 2nd floor, Triveni Complex, Yadwad Road, Mudhol, Karnataka, an objection was raised that as accused No.1 is a company and it is mentioned on the said cover that the company was represented by its Directors, said postal cover cannot be marked. The Court having refused to mark the said postal cover, proceeded to continue with the further evidence of PW1 and to mark other documents and the same is impugned herein. Not marking of document other than touching stamp duty and registration is subject to objection regarding proof, admissibility and relevancy as laid down by the Division Bench in ***BIPIN SHANTILAL***

PANCHAL¹ . When such is the case, it is not even under Section 136 of the Evidence Act, that document is neither relevant nor admissible and trial court should have marked the document by referring it without reproducing the contents as contents are there in the address itself and the refusal to mark is unsustainable. Leave about no necessity of going into the aspect of sufficiency of notice once given to company is a deemed notice to all the Managing Director and Directors as per the expression of the Hon'ble Apex Court in **KIRSHNATEXPORT AND CAPITAL MARKETS LIMITED vs. ILA A. AGRAWAL AND OTHERS** ².

3. Having regard to the above, the trial Court is directed to mark the documents subject to objection regarding proof, relevancy and admissibility to decide ultimately and proceed with further evidence.

4. Accordingly, Criminal Revision Case is allowed.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 3.1.2019.

KPM

¹ 2001 LawSuit (SC) 332

² (2015) 8 SCC 28