

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Petition No.9465 OF 2018

Between:

K. Shisupal Reddy

... Petitioner/R3/Proposed A3

And

1. M/s. Sri Lakshmi Agencies

... Respondent/Petitioner/
Defacto Complainant

2. The State of Telangana,
Rep. by its Public Prosecutor ,
High Court for the State of Telangana,
Hyderabad.

... Respondent/Respondent

DATE OF JUDGMENT PRONOUNCED : 08.11.2023

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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|---|------------------------------------------------------------------------------|--------|
| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRL.P. No. 9465 of 2018

% Dated 08.11.2023

K.Shisupal Reddy

... Petitioner/R3/Proposed A3

And

\$ 1. M/s.Sri Lakshmi Agencies

...Respondent/Petitioner/
Defacto Complainant

2. The State of Telangana,
Rep. by its Public Prosecutor ,
High Court for the State of Telangana,
Hyderabad.

...Respondent/Respondent

! Counsel for the Appellants: Sri K.Sai babu

^ Counsel for the Respondents: Sri Y.Ashok Raj for R1
Sri Sudershan,
Additiional Public Prosecutor for R2

>HEAD NOTE:

? Cases referred

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.9465 OF 2018****ORDER:**

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') by the petitioner/R3/Proposed Accused No.3, to quash the order dated 05.03.2018 passed in CrI.MP.No.2072 of 2017 in CC.No.29 of 2014 by the X Special Magistrate, Erramanzil, Hyderabad, whereby the learned Special Magistrate allowed the petition filed under Section 319 (1) of Cr.P.C. for impleading the respondent No.3 therein-petitioner herein as Accused No.3 in the main CC.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent – State.

3. Criminal complaint was filed by the complainant/1st respondent against this petitioner and two others. At the time of filing complaint, the name of this petitioner was shown as Accused No.3. However, this petitioner's name was rounded off in the cause title of the CC by the complainant. Pursuant to which the Court has taken cognizance against Accused Nos.1 and 2. Thereafter, an application under Section 319 of Cr.P.C. was filed to implicate this petitioner as Accused No.3. The Special

Magistrate had passed a 12 page order on 05.03.2018, restoring the complaint against this petitioner/A3, on the ground that it was admitted during cross-examination that this petitioner was responsible for running the firm.

4. Firstly, the petition under Section 319 of Cr.P.C. would not be maintainable for the reason of the power of the Court to array accused who was not an accused initially. In fact, in the present case, the petitioner was shown as accused and thereafter the complainant had rounded off the name of the accused and sought prosecution against A1 and A2. For the said reason, the trial Court ought not to have entertained an application under Section 319 of Cr.P.C. Only in the event of any evidence which was produced before the Court and it appears to the Court that any person who was involved and such person not previously be an accused can be made accused. In the present circumstances, the order passed by the learned Magistrate is illegal.

5. The cheque was issued by the Proprietary concern-A1. It was signed by Accused No.2 as a Proprietor. Even admitting that this petitioner was running the affairs of the proprietary concern, it does not make him vicariously liable. Under Section 141 of Negotiable Instruments Act, any person who is responsible for

running a company can be made vicariously liable, when such person was responsible for the transactions and also for running the company on a daily basis. Even assuming that this petitioner was running the affairs of the firm, he cannot be made vicariously liable since the cheque was issued by the proprietary concern and only proprietary concern and proprietor can be made as accused and not anyone else including this petitioner.

6. Accordingly, the Criminal Petition is allowed and the order dated 05.03.2018 passed in CrI.MP.No.2072 of 2017 in CC.No.29 of 2014 on the file of X Special Magistrate, Erramanzil, Hyderabad, is hereby quashed.

Miscellaneous applications pending, if any, shall stand closed.

Date: 08.11.2023
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K.SURENDER, J