

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CONTEMPT CASE No. 1951 OF 2014

ORDER:

The Judicial Magistrate of I Class, Mahabubabad passed orders on 31.12.2014 in C.C.No. 48 of 2010 clearly indicating that the petitioner herein, who is appearing as party-in-person, filed Criminal M.P.No. 184 of 2014 under Section 302(2) of the Code of Criminal Procedure seeking permission to appear in person. The Assistant Public Prosecutor has endorsed thereon, no objection and thereafter, after hearing the party, permission has been accorded to him to appear as party-in-person and to prosecute his case. Now he sought for examination of the Investigating Officer, who is noted as L.W.5. Criminal M.P. No. 832 of 2013 was filed on behalf of the prosecution in the abovesaid case to receive the chit pass book and to mark it through the Investigating Officer. That Criminal M.P. was dismissed by the Court, by its order dated 24.09.2013, on merits. Aggrieved thereby, the *de facto*-complainant, the petitioner herein, has preferred Criminal R.P. No. 28 of 2013 on the file of the VI Additional Sessions Judge, Warangal at Mahaboobabad and obtained stay of all further proceedings on 11.10.2013 from the said Sessions Court. Consequently, the proceedings in C.C. No. 48 of 2010 are all stayed by the Sessions Court. Now the petitioner is insisting the learned Magistrate to examine L.W.5, the Investigating Officer into the crime. Though the Investigating Officer appeared, pursuant to the directions issued by this Court in Writ Petition No. 39420 of 2013, in view of the directions issued by the Sessions Court in Criminal R.P. No. 28 of 2013, the learned Magistrate could not proceed further and record the evidence of the Investigating Officer. During the course of the order passed on 31.12.2014, the learned Magistrate has clearly indicated to the *de facto*-complainant, the petitioner herein, either to withdraw CrI.R.P. No. 28 of 2013 pending on the file of the Sessions Court or to get the stay order passed by the Sessions Court vacated to enable the learned Magistrate to proceed further and record the evidence of the Investigating Officer. The matter is now posted to 25.02.2015. Therefore, it is for the petitioner to take necessary steps to prosecute his CrI.R.P. No. 28 of 2013 before the VI Additional Sessions Judge, Warangal at Mahaboobabad or at least get the order of stay vacated or modified suitably so as to enable the learned Magistrate to proceed further and record the evidence of the Investigating Officer.

I am confident that as and when the stay granted by the learned Sessions Judge in CrI.R.P.No. 28 of 2013 is either vacated or modified, the learned Magistrate will proceed in quick time to complete the evidence on behalf of the prosecution and the defence in C.C.No. 48 of 2010 and finalize it as expeditiously as is possible. The Investigating Officer shall extend the necessary cooperation by appearing before the learned Magistrate so as to enable his statement to be recorded.

With this, the Contempt Case stands disposed of.

Consequently, the miscellaneous applications, if any shall also stand disposed of.

NOOTY RAMAMOHANA RAO, J

02nd February 2015

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