

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.1340 of 2015

ORDER:

In this petition filed under Section 482 Cr.P.C., the petitioner/ complainant challenges the order dated 27.11.2014 in CrI. Revision Petition No.2 of 2014 whereunder learned VI Additional District and Sessions Judge, Medak at Siddipet while confirming the order dated 28.05.2013 in CrI.M.P.No.1365 of 2013 in C.C.No.9 of 1998 passed by Additional Judicial Magistrate of First Class, Siddipet, imposed exemplary costs of Rs.10,000/- against the petitioner/complainant.

2) In CrI.M.P.No.1365 of 2013, the trial Court allowed the petition filed by A.1 to A.7 and A.9 under Sec.70(2) Cr.P.C and recalled the NBWs issued against them. The petitioners/accused submitted that they attended the marriage of their nearest relatives on the date of appearance i.e, 21.05.2013 and hence they could not attend the Court. Their submission found favour with the trial Court. While recalling the NBWs the trial Court observed that there were several miscellaneous petitions pending before the Court, and hence the appearance of all the accused was not necessary till disposal of the CrI.M.Ps.

3) Aggrieved by the aforesaid order, the complainant preferred CrI.R.P.No.2 of 2014 before VI Additional District and Sessions Judge, Medak at Siddipet. The said Court while confirming the order of the trial Court imposed exemplary costs

of Rs.10,000/- against the complainant. The said Court observed that though appellant has right to challenge the orders passed by the lower Court, he cannot challenge each and every action taken by the lower Court and causing delay to the proceeding and the Criminal Case was an old case of 1998 and it has travelled altogether 16 years for disposal and the appellant was not cooperating with the Court and dragging on the proceedings.

Hence the present Criminal Petition.

3) Heard.

4) The point for determination is:

“Whether there are merits in this petition to allow?”

5) **POINT:** It appears, the contention of the petitioner/complainant before the Courts below was that the cause shown by the accused for their non-appearance was not correct since the accused not produced Wedding Card in proof of marriage and that 21.05.2013 was a Tuesday and no marriage as per Panchangam could be performed on that day as there were no Muhurthams on that day. The Additional District and Sessions Judge has observed that the satisfaction of the trial Court on the reason shown by the accused was important and no prejudice was manifestly caused to the petitioner/complainant due to the order of the trial Court and accordingly imposed exemplary costs on the ground that he was protracting the case. This Court endorse the same view. In

recalling the warrant, the satisfaction of the concerned Court with regard to the cause shown for non-appearance is important. In this case, the petitioner has not projected any sort of prejudice caused by the order of the trial Court. Therefore, he cannot challenge the recall order passed by the trial Court and confirmed by the Revisional Court. However, considering the fact that the exemplary costs of Rs.10,000/- would cause hardship to the petitioner, the same is reduced to Rs.1,000/-.

6) Therefore, while confirming the orders passed by the Courts below, the exemplary costs of Rs.10,000/- (Rupees Ten Thousand only) imposed by the VI Additional District and Sessions Judge, Medak at Siddipet is reduced to Rs.1,000/- (Rupees One Thousand only) and petitioner/complainant is directed to deposit the same before the Mandal Legal Services Committee, Siddipet within one month from the date of this order.

7) Accordingly, this Criminal Petition is disposed of.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 12-03-2015

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