

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.15318 OF 2014

ORDER:

This Criminal Petition is filed by the petitioner/accused under Section 482 Cr.P.C seeking to quash the order dated 20.11.2014 in Crl.M.P.No.295 of 2014 in Crl.A.No.55 of 2013 passed by the Family court-cum-III Additional District Judge, Vizianagaram and direct to hear the petitioner/appellant on the aspect of additional evidence before hearing main Crl.A.No.55 of 2013.

Heard the learned counsel for the petitioner, Sri N.Siva Reddy, learned counsel for respondent No.1/*de facto* complainant and the learned Public Prosecutor for respondent No.2/State.

The petitioner is accused in Crl.A.55 of 2013 which is an outcome of the conviction judgment in C.C.No.112 of 2010 on the file of Special Judicial First Class Magistrate (Excise), Vizianagaram, for the offence punishable under Section 138 of the Negotiable Instruments Act, where he was convicted for imprisonment of eighteen(18) months with fine. Impugning the correctness of the judgment, he preferred the appeal supra.

Pending appeal, the accused filed Crl.M.P.No.295 of 2014 under Section 391 Cr.P.C. to permit for additional evidence. The learned Sessions Judge after hearing passed a detailed order

dated 20.11.2014 running into three pages, where it is categorically observed that whether the inference drawn under Section 27 of the General Clauses Act (if not also under Section 114 of the Evidence Act) regarding service of notice from the endorsement of Postal Authorities as door locked is correct or not is being appreciated for considering any need of permitting said additional evidence from the Postal Authorities in this matter after elaborate hearing of the appeal involved on that question. The appellate Judge there from wants to take up the additional evidence petition with the appeal and after hearing if necessary by reopen the matter and permit additional evidence. There is no wrong to stretch the hands of this Court under Section 482 Cr.P.C. against that order to interfere with the same.

Accordingly, this Criminal Petition is disposed of.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 03-07-2015

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