

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Crl.P.No.8299 of 2012

ORDER

This petition under Section 482 Cr.P.C., is filed by the petitioner seeking to set aside the order dated 04.09.2012 in Crl.M.P.No.116 of 2012 on the file of the Sessions Judge, Anantapur.

2. The brief facts of the case are that the third respondent/accused while working as Head Cashier in the Bank of Baroda, Anantapur Branch, had misappropriated the amount of Rs.37,52,800/- in the chest of the Bank. Basing on the complaint of the second respondent-Bank, a case in Cr.No.293 of 2011 of I Town Police Station, Anantapur, was registered against the accused for the offences punishable under Sections 409 and 420 I P C . While so, the second respondent-Bank filed Crl.M.P.No.2763 of 2011 seeking to refund the said amount. The said petition was allowed on 01.11.2011 granting permission to withdraw a sum of Rs.23,80,000/-, which was in the custody of the Court. The petitioner herein filed Crl.M.P.No.116 of 2012 seeking to condone the delay of 165 days in preferring the revision against the order dated 01.11.2011 passed in Crl.M.P.No.2763 of 2011. The said petition was dismissed. Aggrieved by the same, the present revision is filed.

3. Learned counsel for the petitioner contended that as the petition was filed for condonation of delay, the Court below out to

have considered the issue of delay and dismissed the petition and therefore, the impugned order is liable to be set aside.

4. Perused the entire material on record. Unfortunately, the Court below has not discussed regarding the issue of condonation of delay of 165 days in preferring the revision against the order dated 01.11.2011 passed in CrI.M.P.No.2763 of 2011, wherein the trial Court granted permission to the second respondent Bank to withdraw the amount. Admittedly, the trial Court has passed the said order for interim custody of the amount with the Bank. However, as the petitioner is arrayed as a witness before the trial Court and the amount is in the custody of the Bank, no prejudice would be caused to the petitioner and he can submit his claim before the trial Court at the time of his examination as a witness. Therefore, this Court is of the view that there is no need to interfere with the order impugned. However, the trial Court is directed to pass an appropriate order regarding disposal of the property at the time of final adjudication.

5. The Criminal Petition is, accordingly, disposed of. Miscellaneous petitions, if any, pending shall stand closed.

RAJA ELANGO, J

24th June, 2015

sj