

THE HON'BLE SRI JUSTICE RAJA ELANGO

Crl.R.C.No.2710 of 2015

ORDER

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This criminal revision case is preferred challenging the docket order dated 27.10.2015 passed in Cr.No.178 of 2015 by the learned X Metropolitan Magistrate, Malkajgiri, Keesara Police Station, Cyberabad District.

2. The aforesaid crime was registered against the petitioners/A1 to A5 for the offence punishable under Section 22(c) of Narcotic Drugs and Psychotropic Substances Act (for short 'the Act'). On production of the petitioners before the Court, the learned Magistrate remanded them to judicial custody for 15 days and the same was extended from time to time. The grievance of the petitioners is that as per Section 36-A of the Act, the Magistrate is not empowered to extend the remand period of the accused after completion of the first remand period and he has to submit the accused persons and the case record to the Special Court for further proceedings in this regard under Section 167 Cr.P.C., since the offence is punishable with imprisonment of more than three years. Hence, they filed the present revision.

3. Heard and perused the material on record.

4. As seen from the docket orders, it is evident on 23.06.2015 when the accused produced before the Court, the learned Magistrate remanded them to judicial custody till 07.07.2015 and from then onwards, extended their remand period from time to time. In view of Section 36-A of the Act., all the offences under the Act which are punishable with imprisonment for a term of more than three years shall be triable by the Special Court and that the Magistrate, before whom the accused person is produced, is empowered to remand the accused to judicial custody for a period not exceeding 15 days and after completion of the said period, he has to forward the accused along with the case record to the

Special Court for further proceedings. In the present case, in view of the Circular issued by the learned I Additional District Judge-cum-Metropolitan Sessions Judge, Cyberabad, L.B.Nagar, directing all the Magistrates not to send the accused and the case records to the said Court in respect of the crimes registered under the Act since the said Court is flooded with number of remand prisoners, the learned Magistrate, without forwarding the accused to the Special Court triable for the offences under the Act, extended their remand period from time to time after completion of the first remand period. In view of the provisions of Section 36-A of the Act, the said Circular issued by the learned I Additional District Judge is illegal and arbitrary and the consequential extension of remand period of the petitioners in judicial custody by the learned Magistrate is also illegal. Hence, the said Circular is hereby set aside. Therefore, in order to correct the said irregularity, the learned Magistrate is directed to forward the petitioners/A1 to A5 along with the case material to the Special Court so as to enable the Special Court to pass appropriate orders in accordance law.

5. Accordingly, the Criminal Revision Case is disposed of. Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE RAJA ELANGO

1st December, 2015

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