

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Crl.R.C.No.2916 of 2015

ORDER

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The present criminal revision case is directed against the order of dismissal dated 30.10.2015 passed in Crl.M.P.No.4668 of 2015 in Cr.No.99 of 2015 by the learned V Additional Judicial First Class Magistrate, Rajahmundry.

2. Heard and perused the material on record.

3. The second respondent herein filed a complaint against A1 to A6 alleging that they used to manufacture and market mattresses, pillows, bolsters under the Trademark "CENTURY" which is visually, phonetically and structurally identical and similar to the trademark of the complainant and thereby cheated the public. The said complaint was registered as Cr.No.99 of 2015 of Rajanagaram Police Station, Rajamundry District, for the offences punishable under Sections 63 and 64 of the Copy Rights Act, 1956 and under Sections 103 and 104 of Trade Marks Act, 1999 and under Sections 420 and 120 IPC read with Section 34 IPC. While so, A1 filed Crl.M.P.No.2156 of 2015 for release of 2nd schedule property i.e., machinery and other items numbering in 12, for interim custody. While allowing the said petition, the trial Court directed A1 to produce a surety worth Rs.20 lakhs like sum to the satisfaction of the Court. Since the said surety was not produced, the trial Court directed the petitioner to produce the market value certificate and as the said market value certificate was also not

produced, the petitioner deposited a sum of Rs.20 lakhs cash before the trial Court. Thereafter, the petitioner filed the impugned application seeking to accept the solvency certificate along with the market value certificate issued by the SRO Razole dated 19.05.2015 worth Rs.35 lakhs in lieu of cash deposit. By the order impugned, the trial Court having found that there is no procedure to accept fresh sureties when the sureties are in existence dismissed the said petition. Aggrieved by the same, the present revision is filed.

4. Initially, the trial Court while ordering interim custody of the property imposed a condition on the petitioner/A1 to produce the surety for a sum of Rs.20 lakhs and since A1 has not produced the said surety, the trial Court further ordered to produce the market value certificate, but A1 deposited a sum of Rs.20 lakhs instead of surety as well as the market value certificate. Now, the petitioner wants to produce the solvency certificate and market value certificate in lieu of cash as already deposited by it.

5. Considering the facts and circumstances of the case, the Criminal Revision Case is disposed of with the following direction:

The petitioner is directed to file an application along with the solvent surety for a sum of Rs.20 lakhs seeking to accept the said solvent surety in lieu of cash deposit. On such application being filed, the trial Court is directed to consider and dispose of the same in accordance with law, after affording an opportunity to all the parties.

6. With the above direction, the Criminal Revision Case is

disposed of. Miscellaneous petitions, if any, pending in this revision shall stand closed.

JUSTICE RAJA ELANGO

27th November, 2015

sj