

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.1908 OF 2016

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ORDER:

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This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C) by the petitioner against order, dated 01.02.2016, in CrI.M.P. No.817 of 2015 in CC No.227 of 2008 passed by the Special Judicial Magistrate of First Class, Prohibition & Excise, Mahabubnagar.

Heard and perused the material available on record.

The brief facts of the case are that the 2nd respondent filed CC No.227 of 2008, before the Court below, against the petitioner for the offence under Section 138 of Negotiable Instruments Act. The 2nd respondent was examined as PW.1 and the statement of the petitioner was also recorded. Thereafter, the petitioner filed an application under Section 315 Cr.P.C., before the Court below to permit him to give evidence in the case. The Court below allowed the said application, on payment of costs of Rs.5,00,000/- payable directly to the 2nd respondent. Aggrieved by the said order, the present criminal petition is filed.

Learned counsel for the petitioner submitted that the petitioner is aged about 87 years and he could not able to understand the questions put-forth by the Court and therefore, he filed the impugned application before the Court below to allow him to give evidence, but the Court below while allowing the said application, imposed costs of Rs.5,00,000/-, which is onerous in nature.

Considering the facts and circumstances of the case and without going into the merits of the case, this Court is inclined to

pass the following order:

The order, dated 01.02.2016, in Crl.M.P. No.817 of 2015 in CC No.227 of 2008 passed by the Special Judicial Magistrate of First Class, Prohibition & Excise, Mahabubnagar, is set aside and the petitioner is directed to deposit Rs.5,000/- (Rupees five thousand only) as costs and on deposit of the said amount, the trial Judge is directed to fix a date for examination of the petitioner as a witness and to produce evidence, if any, on his behalf and dispose of the case in accordance with law.

With the above directions, the Criminal Petition is disposed of. Consequently, miscellaneous petitions pending if any, shall stand closed.

RAJA ELANGO, J

February 17, 2016.

KTL