

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.2833 of 2015

ORDER :

This criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') to direct return of M.O.1 i.e., steel pipes to the petitioner as ordered in CrI.M.P.No.831 of 2012 dated 15.05.2012 and in C.C.No.388 of 2009 dated 31.12.2011 on the file of the XVI Metropolitan Magistrate, Cyberabad, Kukatpally, Miyapur. Aggrieved by the same, the defacto complainant/2nd respondent herein filed CrI.A.No.569 of 2012 before the Metropolitan Sessions Judge, Hyderabad, and the same was dismissed on 21.01.2014.

2. It is the case of the petitioner that he is owner of the property and the 2nd respondent filed complaint against him for the offence punishable under Section 384 IPC and after full fledged trial, the petitioner was acquitted and ordered PW.1-2nd respondent herein to hand over M.O.1 steel pipes to the petitioner. Thereafter, the petitioner filed CrI.M.P.No.831 of 2012 in C.C.No.388 of 2009 for ordering delivery of M.O.1 to the petitioner by the 1st respondent on 15.05.2012 and trial Court issued the following direction.

“Heard, Perused record. Judgment pronounced by my learned predecessor dt.31/12/2011, where in the property is ordered to be returned to the accused. In this case the case property involved was returned to the defacto complainant for interim custody vide orders in CrI.M.P.No.894/05, dt.25/11/2005. After the trial of the

case, the accused was found not guilty of the offence and he is acquitted u/Sec.248(1) Cr.PC and the case property was also ordered to be returned to the accused. In the circumstances the petition is allowed. Case property is order to be returned to the petitioner on proper identification and acknowledgment. The office is directed to issue direction to the defacto complainant through the police to deposit the case property before the court immediately”.

Aggrieved by the calendar case judgment acquitting the petitioner, Criminal Appeal No.569 of 2012 was preferred, which ended in dismissal.

3. The jurisdiction of this Court though unlimited and such jurisdiction under Section 482 Cr.P.C. has to be exercised sparingly only to give effect to the order under the code of criminal procedure to prevent abuse of any Court or to secure the ends of justice. Here, the trial Court already passed an order and in case the 2nd respondent did not produce property before the Court, it is for the Court to take necessary action either suo-motu or on the application of the petitioner, but this Court need not pass any order. Therefore, I find no grounds to exercise the jurisdiction under Section 482 Cr.P.C. and issue the same direction against the 2nd respondent for delivery of property M.O.1 steel pipes. If the petitioner is in minimum need of M.O.1, he can file appropriate application before the trial Court and on such filing application, the trial Court is directed to decide the same in accordance with law.

4. With the above observation, this criminal petition is dismissed.
5. Miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

10th November 2016

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