

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL.P.No.15833 OF 2016

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash the order dated 21.10.2016 issuing NBW's against A1 to A7 on various grounds more particularly about tendering amount covered by the cheque to compound the offence on its second date of adjournment.

It is the case of the petitioners that though several reasons were assigned without applying his mind, the learned Magistrate erroneously issued NBWs dismissing the petition filed by them under Section 317 Cr.P.C. and prayed this Court to set aside the same.

During hearing, learned senior counsel contended that the petitioners are accused before the VII Special Magistrate, Hyderabad in C.C.No.54 of 2016 and they tendered amount covered by cheque by way of demand draft, but due to absence of the complainant his absence was condoned on application, while dismissing the application of the respondent's on the sole ground that they did not execute bond for their appearance on the future dates of adjournment of the case. It is also contended that application of double standard to the respondent and the petitioners by the lower Court is illegal and prayed to set aside the said order.

It is the case of the respondent herein that the petitioners issued cheque and it was dishonoured on its presentation by payee bank after following necessary procedure. Therefore, the respondent filed complaint that the petitioners did not discharge their legally enforceable liability covered by the cheque within the time stipulated under the Act.

Now the petitioners came forward to pay the amount by compounding the offence and tendered demand draft for the amount covered by the cheque and that for the absence of the complainant, the matter could not be compounded on the date of adjournment.

So far as petitioner No.7 is concerned, it is represented that she is suffering from cancer, undergoing chemotherapy, thereby it is difficult for her to attend before the Court. If petitioners 1 to 6 produce evidence in proof about the same, the trial Court may consider the same and dispense with her absence and pass appropriate orders.

Taking into consideration the facts and circumstances of the case including intention of the parties, I find it appropriate to direct the VII Special Magistrate, Erramanzil, Hyderabad to permit the parties to compound the offence on their application filed if any in terms of the directions issued by the Supreme Court on the date of their appearance and on filing of such application for compounding subject to guidelines of Apex Court for compounding of offence under the Negotiable Instruments Act, the trial Court is directed to pass appropriate orders on the same in accordance with law.

With the above observations, the criminal petition is disposed of.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

M.SATYANARAYANA MURTHY,J

09.11.2016
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