

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.4993 OF 2016

ORDER:

This petition is filed by the petitioner-complainant challenging the order dated 2.3.2016 passed in DDR No.1059 of 2016 by the IV Additional Chief Metropolitan Magistrate, Visakhapatnam.

Heard and perused the material available on record.

The petitioner filed a complaint against respondents 2 and 3 before the IV Additional Chief Metropolitan Magistrate, Visakhapatnam for the offence punishable under Sections 138 and 142 of the Negotiable Instruments Act. Later, in view of the judgment of the apex Court in Dasarth Roopsingh Rathod (2014(2) ALD (Criminal Petition) 190 SC), the learned Magistrate returned the complaint to present it before the competent Court. The petitioner presented it before the XI Additional Chief Metropolitan Magistrate's Court, Secunderabad. The learned Magistrate transferred the complaint to the XXIII Special Magistrate, Erramanzil, Hyderabad. Later, in view of the amendment to the Act, the petitioner filed a memo before the learned Special Magistrate for transfer of the complaint to the IV Additional Chief Metropolitan Magistrate, Visakhapatnam. In view of the memo, the learned Special Magistrate returned the complaint to be presented before the Court of IV Additional Chief Metropolitan Magistrate, Visakhapatnam. The petitioner presented the said complaint before the IV Additional Metropolitan Magistrate, Visakhapatnam. The learned Magistrate returned the complaint with the following observations:

1. Special Magistrate has got no power to transfer the matter from Court to another under Cr.P.C. Special Magistrate is not a Court in strict sense.
2. The Complainant is directed to file transfer proceedings of the Hon'ble M.S.J., who has got vested power to pass transfer proceedings under the Code.

Considering the facts and circumstances of the case, this Court is of the view that as per the provisions of Negotiable Instruments (Amendment) Ordinance, 2015, the Court, which has original jurisdiction to entertain the complaint, has to take the complaint on file to proceed in accordance with law. Therefore, the learned IV Additional Chief Metropolitan Magistrate, Visakhapatnam is directed to receive the complaint, number it and dispose of the same in accordance with law, after issuing notice to respondents Nos.2 and 3.

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

JUSTICE RAJA ELANGO

Date : 11.4.2016
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HONOURABLE SRI JUSTICE RAJA ELANGO

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DATED 11.4.2016

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