

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.134 OF 2016

ORDER:

This Criminal Revision Case is filed by the complainant challenging the order of the I Additional Judicial First Class Magistrate, Mancheri dated 17.12.2015 whereby the learned Magistrate returned the file in CFR No.2014 of 2015 in unregistered C.C. of 2015 on the ground that the complainant failed to resubmit the complaint within 30 days from the date of its return.

The order impugned in the revision runs as follows:

“How this Memo is maintainable as the complainant failed to resubmit the complaint within 30 days from the date of its return explain.

Hence Return.”

The brief facts of the case are that the petitioner herein filed the above complaint invoking the provision under Section 138 of negotiable Instruments Act, and the same was pending before the learned Special Magistrate, Karimnagar as C.C.No.115 of 2015. Subsequently, in view of the Ordinance passed, the said C.C. was transmitted to I Additional Judicial First Class Magistrate, Mancheri as per the orders dated 28.9.2015 passed by the Special Magistrate. However, the said Special Magistrate returned the complaint to the petitioner herein addressing a letter to the I Additional Judicial Magistrate of First Class, Mancheri vide Lr.Dis.No.2316/2015 dated 9.10.2015. The Magistrate at Mancheri by the impugned order returned the memo filed by the petitioner dated 5.11.2015 along with the file papers holding that though the order was passed on 28.9.2015, the complainant has failed to resubmit the same within a period of 30 days.

Heard and perused the material available on record.

This is unfortunate to note the procedure followed by the

Special Magistrate at Karimnagar while transferring the case basing on the Ordinance passed regarding the point of jurisdiction of cases under Section 138 of Negotiable Instruments Act. Admittedly, this is a case where cognizance of offence was already taken by the Special Magistrate, Karimnagar and the same was also numbered as C.C.No.115 of 2015. Thereafter, the said Magistrate passed an order for transmitting the records to the Court at Mancherial where the offence is triable as per the Ordinance. It is unfortunate to note that after passing such an order, the file was handed over to the petitioner-complainant for re-submission of the same before the Court, which is having jurisdiction. When the same is submitted by the petitioner along with memo, the impugned order is came to be passed by the learned Magistrate. This Court is of the view that the procedure followed by the learned I Additional Judicial Magistrate of First Class, Mancherial is totally erroneous and even the Special Magistrate, Karimnagar ought to have followed the correct procedure while transmitting the file. Since the cognizance of offence was already taken, the Special Magistrate ought to have transferred the file to the Magistrate at Mancherial through proper channel. Further even though there are some procedural lapses, it is the duty of the Magistrate, Mancherial to take the complaint on file in view of the Ordinance passed that too when the cognizance has already been taken. Under those circumstances, the impugned order is liable to be set aside.

Accordingly, the impugned order is set aside and the I Additional Judicial Magistrate of First Class, Mancherial is directed to receive the file, number the C.C., issue summons to the accused and to proceed with the case in accordance with law.

The revision is disposed of accordingly.

Consequently, miscellaneous petitions, if any, pending, shall

stand closed.

JUSTICE RAJA ELANGO

01.02.2016

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