

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.17069 OF 2016

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the Order dated 08.08.2016 in C.R.P. No.92 of 2016 passed by the Special Judge for Trial of Cases under SCs & STs (PoA) Act-cum-X Additional District & Sessions Judge, East Godavari District at Rajahmundry, whereby dismissed the revision petition, confirming the order dated 17.03.2016 in CrI.M.P. No.902 of 2016 passed by the VII Additional Judicial Magistrate of First Class, Rajahmundry.

The petitioner is a finance company, who deals with finance business and financing against pledge of gold. The case of the petitioner is that on a complaint, the Police Bommuru Police Station registered Cr.No.11 of 2016 against the second respondent for the offences punishable under Sections 406, 409, 381 and 420 of Indian Penal Code, 1860 (for short, 'I.P.C.'). During investigation the gold coins were seized by the police and the petitioner filed a petition under Section 451 of Cr.P.C. before the learned Magistrate, to release the gold coins. But the learned Magistrate, after hearing the argument of the counsel for the petitioner and the Assistant Public Prosecutor, passed an order directing the police to release the property on deposit of the value of the gold coins i.e. Rs.9 lakhs. Aggrieved thereby, the petitioner preferred Revision Petition under Section 397 of Cr.P.C. in C.R.P. No.92 of 2016. After hearing the counsel for the petitioner and the Additional Public Prosecutor, the learned Additional Sessions Judge affirmed the order passed by the

- 2 -

trial court. Hence, the present criminal petition is filed on various grounds.

However, during hearing, Sri K.B.Ramanna Dora, learned counsel for the petitioner, requested to order release of gold coins on furnishing Bank guarantee instead of insisting deposit of Rs.9,00,000/-, in view of demonetization.

The learned Public Prosecutor for the State of Andhra Pradesh has drawn the attention of this court to the observation made by the learned Additional Sessions Judge in the order under Challenge. At paragraph 18 of the order under challenge, insistence of deposit of Rs.9 Lakhs i.e. value of the gold coin appears to be onerous and it virtually amounts to rejection of release of the gold coins.

In view of the present circumstances i.e. demonetization, instead of insisting to deposit Rs.9 lakhs, furnishing Bank guarantee for Rs.9 lakhs is sufficient to release the gold coins.

Therefore, the petitioner is directed to furnish Bank guarantee for Rs.9 lakhs from any Nationalized Bank and keep it alive till disposal of the C.C. and on furnishing Bank guarantee, the learned Magistrate shall issue a direction to the police concerned for release of the gold coins.

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

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 26.12.2016
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