

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.830 of 2016

JUDGMENT:

This Criminal Appeal is preferred by the complainant challenging the docket order, dated 19.02.2013, passed in C.C.No.93 of 2012 by the Special Magistrate Court No.III, Kukatpally at Miyapur, whereby the learned Judge dismissed the complaint.

Heard and perused the records.

Learned counsel for the petitioner submits that the Court below erred in dismissing the complaint by observing that the counsel for the complainant is absent and no steps are being taken by the complainant to get the Non Bailable Warrants (NBWs) executed and to secure the presence of the accused before the Court to proceed even after lapse of three years. He further submits that the Court below failed to take into consideration the fact that the Advocate Commissioner has been appointed to execute the NBWs on the accused on payment of Rs.5,000/- and that the complainant has paid the said amount and the accused has escaped from his residence in order to avoid execution of NBWs and to that effect, the Advocate Commissioner has filed his report. He further submits that the complainant has wrongly noted the posting of the case in his diary as 20.02.2013, instead of 19.02.2013 and as such, he could not appear on 19.02.2013. Hence, he prays this Court to set aside the docket order and to remand the matter for further proceedings.

Considering the facts and circumstances of the case and also as the complainant is evincing interest in prosecuting the case further, one more opportunity may be given to the complainant. Hence, the order under challenge, dated 19.02.2013 passed in C.C.No.93 of 2012 is hereby set aside. The Court below is directed to restore the case on its file and

proceed in accordance with law after giving reasonable opportunity to the complainant.

The Criminal Appeal is accordingly disposed of. Miscellaneous applications, if any pending in this appeal, shall stand dismissed.

JUSTICE RAJA ELANGO

01.09.2016
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