

HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.12341 of 2016

ORDER :

This Criminal Petition is filed under Section 482 of Cr.P.C. by the petitioner/Surety, questioning the correctness of the order, dated 17.06.2016, passed by the II Special Magistrate, Hyderabad, in CrI.M.P.No.41 of 2016 in C.C.No.41 of 2011, whereby, the learned Magistrate has refused to release the petitioner's surety and also the Fixed Deposit Receipt for Rs.10,000/- which has been deposited.

The record shows that the petitioner stood surety for the 3rd respondent herein, who is facing trial in the complaint filed by the 2nd respondent for the offence under Section 138 of the Negotiable Instruments Act. The trial Court convicted the 3rd respondent, against which, he preferred an appeal before the appellate Court. While suspending the sentence, it appears that the appellate Court directed the 3rd respondent/ accused to file personal bond for Rs.10,000/- with two sureties each for the like sum. Pursuant thereto, the petitioner herein gave surety to the 3rd respondent/accused by making a deposit of Rs.10,000/- . The appellate Court also confirmed the conviction, aggrieved of which, the 3rd respondent/ accused approached the High Court. This Court, vide orders in CrI.R.C.M.P.No.1815 of 2016 in CrI.R.C.No.1216 of 2016, dated 26.05.2016, suspended the order of the appellate Court subject to condition that the petitioner therein, namely, M.Shanthan Reddy, the 3rd

respondent herein/accused should deposit a sum of Rupees One Lakh and also furnish bond for Rs.25,000/- with two sureties for the like sum each. The said condition is said to have been complied with. Therefore, the petitioner who stood surety for the 3rd respondent/accused during the pendency of appeal automatically gets dissolved in view of the fact that subsequently, the 3rd respondent/accused has furnished fresh bonds pursuant to the orders of High Court.

In the above circumstances, the order of the trial Court does not survive and the same is accordingly set aside. The learned II Special Magistrate, Hyderabad is directed to return the FDR to the petitioner/surety.

Accordingly, the Criminal Petition is allowed. Consequently, pending miscellaneous applications, if any, shall stand closed.

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M.S.K.JAISWAL, J

26th August 2016

ajr