

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15968 OF 2016

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the order dated 07.11.2016 in CrI.M.P. No.1575 of 2016 in C.C.No.171 of 2011 passed by the V Special Magistrate, Hyderabad.

The petitioner filed CrI.M.P. No.1575 of 2016 in C.C. No.171 of 2011 before the V Special Magistrate at Hyderabad, under Section 311 of Cr.P.C. seeking permission to adduce defence evidence. But the court dismissed the petition on the ground that the matter was dragged by the petitioner since 18.02.2014. In fact the matter was stayed by this Court vide orders in CrI.P.No.1448 of 2014 and the petition was disposed of by this court on 14.06.2016 and later the matter was posted to defence evidence on 03.10.2016 only. The trial court, on misconstruction of the reason for pendency of the matter, concluded that the petitioner dragged the matter since 18.02.2014 ignoring the stay granted by this Court vide order in CrI.P. No.1448 of 2014. Therefore, it is apparent mistake on the part of the Court.

However, Sri. K.Sankaraiah, learned counsel for the first respondent, fairly conceded to afford opportunity to the petitioner by fixing a date for defence evidence. But this court cannot fix a date of defence evidence, since fixing a date is based on the work load of the Officer, who is trying the case.

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Therefore, I deem it appropriate to direct the V Special Magistrate to fix a specific date and afford opportunity to adduce defence evidence in C.C. No.171 of 2011. In the event of failure to adduce defence evidence on the date fixed, the learned Magistrate is at liberty to proceed with further in accordance with law.

With the above direction, the criminal petition is allowed.

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

M. SATYANARAYANA MURTHY, J

Date: 22.12.2016
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