

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16851 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 docket order dated 12.08.2016 in C.C. No.84 of 2016 passed by the Additional Junior Civil Judge, Chilakaluripet, whereby the learned Magistrate issued NBW against A.3 and A.4.

The only contention of the counsel for the petitioner before this Court is that the petitioner is settled at Gurgaon after retirement as General Manager in Cotton Corporation of India, and he was unable to appear before the Court.

But this Court cannot exercise such power under Section 482 of Cr.P.C. to quash such order, where there is a specific remedy available under the provisions of Cr.P.C. i.e. Section 70(2) of Cr.P.C.

In **STATE OF HARYANA V. BHAJAN LAL¹**, the Apex Court laid down certain guidelines, wherein in guideline No.6 it is held that where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party, this court cannot exercise jurisdiction under Section 482 of Cr.P.C.

¹ 1992 SUPP (1) SCC 335

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Here, an efficacious remedy is available to the petitioner to file an application under Section 70(2) of Cr.P.C. before the learned Magistrate to recall N.B.W.

Hence, the criminal petition is disposed of, directing the petitioner to file application under Section 70(2) of Cr.P.C. to recall N.B.W. On filing such application, the Additional Junior Civil Judge, Chilakaluripet, is directed to decide the same on the same day, on appearance of the petitioner before the Court.

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

Date: 16.12.2016
BV

M. SATYANARAYANA MURTHY, J

