

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15544 of 2016

ORDER:

This Petition is filed under Section 482 Cr.P.C. to quash the Order dt. 20.04.2016 in CrI.R.P.No.37 of 2015 passed by Principal Sessions Judge, Adilabad.

2. It is the case of the petitioner that he filed a case under Section 138 of Negotiable Instrument Act and it was coming on for trial before Judicial First Class Magistrate (Excise), Adilabad. But, as the petitioner went on pilgrimage for three years from 2012 to 2014 i.e., visit of Amarnath, he could not appear before the trial Court, which prevented the petitioner from attending the Court since it is beyond his control and hence his absence is neither willful nor wanton and he thus prayed for setting aside the Order Dt.11.08.2015 passed by Special Judicial Magistrate of First Class (Excise) Adilabad, which was confirmed by Principal Sessions Judge, Adilabad.

3. Undisputedly, C.C.No.122 of 2013 was posted for trial and the petitioner admitted that he did not appear before the Court for a period of three years and the reason for his absence is that he was on pilgrimage for three years i.e., visit of Amarnath, which is unbelievable reason, and it is hardly difficult to believe that a person was touring for three years i.e., visit of Amarnath. But, visit of Amarnath may not require more than one month. It is not his case that he stayed at Amarnath for the remaining 923 days. So, therefore, the cause shown by the petitioner is beyond the truth and it is totally unbelievable. Therefore, the trial Court rightly dismissed the Petition, which was confirmed by the Revisional Court in CrI.R.P.No.37 of 2015.

4. Now the said Order is questioned on the same ground. But, this Court can exercise its inherent power while dealing with a Petition under Section 482 Cr.P.C. if the Order passed by the trial Court is erroneous and against the legal principles. When the trial Court and the Revisional Court assigned its own reasons for passing the order under challenge, this Court cannot interfere with the findings of the Courts below and the reason for his absence for three years on account of pilgrimage to Amarnath is appears to be exaggeration, and therefore, such reason cannot be accepted to set aside the Order passed by the trial Court. Hence, I find no ground to set aside the Order dt. 11.08.2015 passed by the trial Court, which confirmed by the appellate Court in Cr.R.P.No.37 of 2015.

5. In the result, this Criminal Petition is dismissed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

Dt: 01-11-2016

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Dt. 01.11.2016

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