

HONOURABLE SRI JUSTICE M.S.K. JAISWAL

CRIMINAL PETITION No. 13403 of 2016

ORDER:

This Criminal Petition under Section 482 Cr.P.C., is filed to quash the order dated 30.06.2016 in CrI.M.P.No. 1173 of 2016 in CC No. 547 of 2009 on the file of learned Second Additional Judicial Magistrate of First Class, Tirupathi.

The petitioner herein is Accused No.2 in the aforesaid Calendar Case. It is alleged that the petitioner herein was suffered amputation up to knee at CMC Hospital, Vellore and thereby he is unable walk and stand on his own and that he is a chronic diabetic patient. In view thereof, he filed a petition under Section 205 Cr.P.C. in CrI.M.P.No. 1173 of 2016 before the Court below seeking to dispense/condone his presence and permit the Advocate on record to represent on his behalf. The trial Court by impugned order rejected the request of the petitioner. Hence the present Criminal Petition.

Having heard the learned Counsel on either side and going through the material on record, it is obvious that the trial Court has given proper and cogent reasons in dismissing the petition filed by the petitioner for dispensing his personal appearance. The learned Magistrate doubted the petitioner/Accused No.2 who has suffered amputation upto knee is not in a position to appear before the Court and thereby rejected his request. It was further observed

therein that if the petitioner-A.2 is unable to appear can file a petition seeking to condone his absence. In that view of the matter, the Criminal Petition is disposed of directing the learned Magistrate not to insist the presence of the petitioner/A.2 for each and every adjournment unless feels that his physical presence is necessary for any specific purpose. In case the petitioner/A.2 is unable to appear before the Court below as and when required/summoned, he can file a petition under Section 317 Cr.P.C. which shall be considered and disposed of by the Magistrate on the same day.

Miscellaneous petitions pending consideration if any in the Criminal Petition shall stand closed in consequence. No order as to costs.



JUSTICE M.S.K. JAISWAL

DATED 21st September, 2016.
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