

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.4990 of 2017

ORDER:

Heard learned counsel for the petitioner/ accused, learned counsel for the 2nd respondent/ complainant of C.C.No.112 of 2016 on the file of the Special Judicial Magistrate of I Class, Excise Court, Ongole, which is outcome of the private complaint, registered for the offence punishable under Section 138 of the Negotiable instruments Act, 1881 and learned Public Prosecutor representing the State.

During trial, the petitioner/ accused wanted to adduce electronic evidence and a petition filed in CrI.M.P.No.2650 of 2017 in C.C.No.112 of 2016 was ended in dismissal on 15.06.2017.

This Court, in CrI.R.C.No.799 and 802 of 2017, by common order dated 18.04.2017, allowed the applications stating that the accused got a valuable right of defence in the two cheque bounce cases in C.C.Nos.111 and 112 of 2016 and within one week from the date of receipt of copy of that order by filing proper application to receive the electronic evidence by assigning reasons that can be decided in disposal of the application on own merits by the trial Court. It is the submission that such an application filed in two C.Cs and of which original C.D. filed in C.C.No.111 of 2016, whereas, in C.C.No.112 of 2016, no such C.D. or any electronically

prepared copy of it filed and it is there from no electronic evidence filed, CrI.M.P.No.2650 of 2017 was dismissed by the impugned order of the learned Magistrate dated 15.06.2017.

The original C.D. filed in C.C.No.111 of 2016 is not in dispute, but for, not filed another copy of it in C.C.No.112 of 2016.

Having regard to the above, the Criminal petition is allowed and the impugned order dated 15.06.2017 in CrI.M.P.No.2650 of 2017 in C.C.No.112 of 2016 passed by the Special Judicial Magistrate of I Class, Excise Court, Ongole, is set aside and the petition is restored to the file of the trial Court with opportunity to the petitioner to file a certified copy or retrieved copy of the C.D. in C.C.No.112 of 2016 also and after recording evidence in C.C.No.111 of 2016 on the original C.D. by substitution of copy cause send for the original to this case in C.C.No.112 of 2016. Any objection while marking the same is left open to decide on own merits.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 29.08.2017
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