

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.7432 of 2017

ORDER:

Heard the counsel for the petitioners/A1 to A7 of STC No.601 of 2013 pending on the file of the Special Judicial Magistrate of Second Class, Armoor and also the Public Prosecutor representing the respondent-State of Armoor Police Station and perused the impugned docket order of the learned Magistrate, dated 26.08.2017, which is outcome of the earlier docket order, dated 20.07.2016, vide Crime No.395 of 2013 of Armoor Police Station.

2. The impugned docket order, dated 26.07.2017, reads as follows:

“A1 to A7 are called present. LW3 is examined in chief and cross as PW1. a perusal of the record shows that accused persons took the interim custody of pool amount vide orders in CrI.M.P.No. on the pretext of demonetization of notes, said petition was allowed on 27.12.2016 on the condition that the petitioners/accused shall produce the same cash before this Court as and when required and handover the cash of RS.1,66,890/- to the petitioners/A1 to A6. the case is coming up for trial and it is just and necessary to deposit the case property before this court for the purpose of identification by seizer panchas. Hence, the petitioners/accused persons therein A2 to A7 are hereby directed to deposit their respective share amount before this Court on or before 7.08.2017. The office is hereby directed to inform the same to Prl. District & Sessions Judge, Nizamabad for favour of information. Call on 17.08.2017”

3. The earlier docket order, dated 27.12.2016, giving custody of that seized cash reads as follows:

“Heard both sides.

In the circumstances, the petition is allowed and ordered to be returned. The case property (cash), which is shown in CPR No.204/13 i.e., Net cash of RS.1,66,890/- item No.2 in favour of the petitioners/respondents for proper certify on the execution of personal bond of RS.25,000/- for R1, Rs.30,000/- for R2, Rs.40,000/- for R3, Rs.22,890/- for R4, Rs.35,000/- for R5 and Rs.14,000/- to R6 respectively with one (1) surety of Rs.1,75,000/- for like sum of this Court.

The petitioner is directed to produce the such cash before this court as and when ordered. Accordingly the petition is allowed.”

4. It is one of the contentions urged in the grounds that by virtue of demonetization unless the cash that was originally seized will be converted into enforceable currency by exchange, it will be of no worth after expiry of certain period by virtue of which permission sought and permitted of execution of bonds with surety by order, dated 27.12.2016, and they converted into enforceable currency and they want to deposit the same. However, the learned Magistrate by the order impugned insisting them to produce the original seized currency given to them.

5. In fact, the Apex Court in *Sunderbhai Ambalal Desai vs. State of Gujarat*¹ categorically observed that while giving in interim custody, panchanama and photographs to be taken as a safeguard including in future for exhibiting the same during trial, for which the accused if at all there are Receivers of the interim custody cannot object. These docket orders no way reflect any panchanama conducted or any photographs taken. Even that is

¹ 2002(1) ALD (CrI.) 8 (SC)...

not there, the Court cannot compel them to perform impossibility of the already changed demonetization currency with no utility or value into presently enforceable currency, which they cannot produce but for to say permit them to deposit the enforceable currency to which they already converted and hence, the earlier property deposit form containing the currency particulars, if any, and the interim custody order and other order of the Court and the present order of this Court as C-series exhibits during trial as the accused cannot object to the original seized currency, if at all to exhibit by virtue of this order.

With these observations, the Criminal Petition is disposed of. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

September 4, 2017
LMV

