

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1586 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed challenging the order, dated 05.01.2017, passed in CrI.MP.No.50 of 2017 in C.C.No.808 of 2015 on the file of V Additional Judicial Magistrate of First Class, Guntur.

2. In a complaint filed for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, after the complainant was examined as PW.1, the petitioner, who is accused, did not co-operate with the Court to cross-examine PW.1. When the petitioner filed a petition, under Section 317 of the Code, on 05.01.2017, the learned Magistrate dismissed it by the order under challenge by assigning elaborate reasons.

3. A perusal of the order under challenge would show that the learned Magistrate has given a long rope to the petitioner affording opportunity after opportunity and even on an occasion, the learned Magistrate kept aside the case till 05:00 PM to enable the petitioner to cross-examine PW.1, but he did not turn up, which would clearly reflect the conduct of the petitioner in one way or other evading to cross-examine PW.1 and getting the matter protracted.

4. Now, the petitioner challenges the said order. The submission of the learned counsel for petitioner is that the Court below was not right in dismissing the petition under Section 317 of the Code. Certainly, there is no merit in the said submission. The order passed by the learned Magistrate does not suffer from any legal infirmity and it is on right lines and, therefore, there is no merit in the present Criminal Petition. However, since the case should go on and the learned counsel for petitioner would submit that Non-bailable Warrant was issued against the petitioner, the petitioner is hereby directed to appear before the V Additional Judicial Magistrate of First Class, Guntur, and make an application under Section 70 (2) of the Code within one month from the date of receipt of a copy of this order. In case, such an application is filed, the learned Magistrate shall dispose of the same in accordance with law on the same day.

5. With the above observations, the Criminal Petition is dismissed. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

March 01, 2017.
MD