

HON' BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION Nos.7106 and 7109 of 2017

COMMON ORDER:

Heard learned counsel for the petitioner/ accused in both the matters self-same, who is the appellant in Criminal Appeal No.49 of 2017 on the file of the II Additional District Judge, Parvathipuram, Vizianagaram District, against the conviction judgment of the Judicial Magistrate of First Class, Salur, in C.C.No.235 of 2009 dated 13.06.2017, for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') and also learned Public Prosecutor representing the State, before ordering notice to the 2nd respondent-complainant of the said private complaint case.

The grievance of the petitioner mainly from the grounds urged in the two Criminal Petitions is that the trial Court, on the request of the petitioner/ accused of going to prefer the appeal, suspended the sentence to enable him to maintain an appeal and get order of suspension, meantime, if any. However, having filed Criminal Appeal No.49 of 2017 along with the application in CrI.A.M.P.No.53 of 2017 to suspend the sentence under Section 389 Cr.P.C., issued N.B.W., which is unjust.

A perusal of the above facts clearly show that it is the duty of the lower appellate Court to dispose of the application in CrI.A.M.P.No.53 of 2017, before ordering issuing of N.B.W.

Having regard to the above, while suspending the N.B.W. issued, for a period of one month from today, the II Additional District Judge, Parvathipuram, Vizianagaram District, is directed to dispose of CrI.A.M.P.No.53 of 2017 in Criminal Appeal No.49 of 2017, within a period of one week from the date of receipt of copy of this order.

Accordingly, both the Criminal Petitions are disposed of.

Pending miscellaneous petitions, if any, shall stand closed.

Date: 17.08.2017

Note:

Issue C.C. on 18.08.2017.

B/ o.

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JUSTICE Dr. B.SIVA SANKARA RAO

