

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

Criminal Revision Case No.829 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 (1) and 401 of the Code of Criminal Procedure, 1973, ('the Code', for short) by the petitioner/ complainant is filed requesting to set aside the entire proceedings subsequent to 22.03.2017 in C.C.No.273 of 2015 on the file of the Court of the learned XVIII Additional Chief Metropolitan Magistrate, at Erramanzil, Hyderabad, in view of the orders dated, 07.09.2016, of this Court in CrI.P.No.12707 of 2016, and consequently direct the said learned Magistrate to post the above said case for judgment and render a judgment, which he may deem fit and proper in the circumstances of the case.

2. I have heard the submissions of *Sri Zubail Fazal*, learned counsel for the petitioner/ complainant, *Sri B.Vara Prasada Rao*, learned counsel for the 2nd respondent/ accused, and of the learned Public Prosecutor representing the 1st respondent/ State of Telangana. I have perused the material record.

3. Before proceeding further it is apt to refer to the cases of the parties.

3.1 The case of the petitioner/ complainant (hereinafter, 'complainant') and the submissions made by the learned counsel for the complainant, in brief, are as follows: 'This Court, by orders dated 07.09.2016, in Criminal Petition No.12707 of 2016, directed the learned Magistrate to dispose of the aforesaid calendar case (hereinafter, 'CC') positively within a period of six months from the date of receipt of a copy of the said order and further directed that the learned Magistrate shall not seek further time for disposal of the case. However, the learned Magistrate failed to dispose of the CC within the time mentioned in the orders of this Court. Therefore, all the proceedings in the CC subsequent to the expiry of the time limit fixed by this Court are not valid

proceedings in the eye of law. The above said order of this Court was brought to the notice of the trial Court on 22.09.2016; and the time of six months fixed in the orders of this Court for disposal of the said CC expired by 22.03.2017. Therefore, all the proceedings in the CC before the trial Court subsequent to the said date have to be eschewed from consideration, the same being null and void. The CC is of the year 2014. The said CC was originally pending on the file of the Court of the learned IV Additional Chief Metropolitan Magistrate, at Nampally, Hyderabad; and later, it was transferred to the present Court and was re-numbered as C.C.No.273 of 2015. The chief affidavit of the 1st witness was served on the counsel for the 2nd respondent/ accused on 17.03.2016 and the complainant was examined as PW1 on 18.03.2016. From that day and till date, the trial has not concluded. The 2nd respondent/ 1st accused (hereinafter, 'the 1st accused') is a Company and the 2nd accused is its Director. The accused are dragging on the matter endlessly, despite directions of this Court for expeditious disposal of the CC within the time fixed in the orders of this Court. Subsequent to the expiry of six months period fixed in the orders of this Court, the proceedings that took place before the trial Court in the above said CC are null and void. In a catena of decisions, the Supreme Court held that in criminal cases, the trial schedule must be fixed, so far as practicable, consistently with the interests of justice and that the trial shall be continued from day to day until its conclusion, unless the Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing. Every trial in a criminal case shall be conducted as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint. In the case on hand, the trial has not concluded even within the six months period fixed by this Court. Hence, the present revision case is filed by the complainant requesting this Court to set aside all the proceedings in the above CC subsequent to

22.03.2017 and to direct the learned Magistrate to render judgment in accordance with law having regard to the evidence available on record prior to 22.03.2017.'

4. Learned counsel for the 2nd respondent brought to the notice of this Court various events that took place from time to time in the CC and also the transfers of the Presiding Officers and the post of the Presiding Officer of the Court below remaining vacant and the petitions filed from time to time by both the parties and the subsequent orders of this Court and all the said and other reasons for the delay, which are beyond the control of the parties as well as the Presiding Officers of the Court.

5. In the facts and circumstances of the case, this Court called for a detailed report from the learned Magistrate. The same was placed on record. Both the learned counsel were given opportunity to peruse the said report. This Court also perused the said report.

6. At the hearing, learned counsel fairly submitted that in the peculiar facts and circumstances of the case, if a date is fixed for appearance and examination of DW1 and further directions are given for expeditious disposal of the CC, the ends of justice would be met.

7. In the peculiar facts and circumstances of the case, there is no need to dilate on any other aspects. However, it is apt to note the following aspects: "In Crl.P.Nos.1503 & 774 of 2017, this Court passed orders, on 28.02.2017, directing the trial Court to give an opportunity to the accused to examine one witness-DW1 on behalf of the accused. And, accordingly, the accused produced the said witness and the chief evidence affidavit of the said witness was also filed before the trial Court on 04.04.2017. Subsequently, the matter underwent adjournments either on account of the absence of the witness or on

the ground that the counsel for the complainant failed to cross-examine the said witness despite the insistence of the trial Court. Thus, it is fairly stated that the chief affidavit of DW1 is already filed and the case before the trial Court is coming up for cross-examination.

8. In that view of the matter, the Criminal Revision Case is disposed of directing the accused to produce the witness DW1 before the trial Court without fail for his examination in the above said CC, on 19.07.2017, as both the sides agreed for fixing the said date for examination of DW1. If necessary, the trial Court shall issue handover summonses to both the complainant and the accused through their learned counsel for service on the said witness for his appearance on 19.07.2017 before it for his examination. The trial Court may also simultaneously issue witness summons through Court to the said witness for his appearance, on 19.07.2017, to avoid any further delay in the matter. On appearance of the witness-DW1, the trial Court shall complete his examination on the same day (19.07.2017) and shall further proceed in the matter in accordance with the procedure established by law by continuing the proceedings on day-to-day basis until its conclusion and shall endeavour to dispose of the case, as expeditiously as possible and preferably before 31st July, 2017.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

10th July 2017

Note:- Issue CC by 11.07.2017
(B/ o)
RAR