

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1602 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioners - accused Nos.1 and 3 viz., Athava Atchutharao @ Seshu and O.Vijaya Kumar respectively, requesting to relax condition Nos.1 and 2 imposed by the learned Metropolitan Sessions Judge -cum- I-Additional District and Sessions Judge, Visakhapatnam, by the order dated 09.12.2016 in Criminal M.P. No.4181 of 2016 in Crime No.166 of 2016-17 of Prohibition and Excise Station, Chodavaram.

2. Condition Nos.1 and 2 of the learned Metropolitan Sessions Judge -cum- I-Additional District and Sessions Judge, Visakhapatnam, reads thus:

“1. The petitioner/A1 shall furnish a personal bond of Rs.50,000/- (Rupees fifty thousand only) and two sureties who shall each furnish a Fixed Deposits of Rs.50,000/- (Rupees fifty thousand only), to the satisfaction of the learned Additional Judicial First Class Magistrate, Chodavaram.

2. The petitioners/A2 and A.3 shall furnish personal bond of Rs.1,00,000/- (Rupees one lakh only) each and two sureties each who shall each furnish a Fixed Deposits of Rs.1,00,000/- (Rupees one lakh only) to the satisfaction of the learned Additional Judicial First Class Magistrate, Chodavaram.”

3. Sri G. Venkat Reddy, learned counsel for the petitioners would agree that it is not a petition, which ought to be filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, ‘the Code’),

when there is a specific provision under Sections 439(1)(b) and 440(2) of the Code.

4. An elaborate order is passed in alike petitions in CrI.P.Nos1396 of 2017 and 618 of 2017 and being pronounced today, holding that the request of this nature has to be entertained either under Sections 439(1)(b) or 440 of the Code, where a specific provision is inlaid in the Code to seek appropriate relief.

5. Accordingly, the criminal petition is disposed of giving liberty to the petitioners to avail the opportunity under the relevant provisions of law.

6. The Registry is directed to return the original/certified copy of impugned order in Criminal M.P.No.4181 of 2016 to the learned counsel for the petitioners forthwith without any delay.

7. As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

A. SHANKAR NARAYANA, J

February 27, 2017.

Note:

Issue C.C. by tomorrow.

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