

THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2060 OF 2017

ORDER:

The present Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), is filed requesting to quash the order, dated 23.01.2017, in CrI.M.P.No.36 of 2017 in C.C.No.479 of 2007 on the file of Special Judicial Magistrate of First Class (Prohibition and Excise Cases), Khammam.

2. Petitioner is arraigned as sole accused in the aforesaid Calendar Case. She alleged to have committed the offences punishable under Section 138 of the Negotiable Instruments Act, 1881, and Section 420 I.P.C.

3. Heard Sri T. Prasanna Kumar, learned counsel for the petitioner.

4. Learned counsel for the petitioner would submit that the petitioner was althrough busy looking after her husband, who was ailing on account of the accident with which he met, and they were wandering from one hospital to another and that was the reason why she could not make her appearance before the Court below. He would also submit that the petition filed by the petitioner under Section 70 (2) of the Code was dismissed by the Court below and, therefore, requests to give a chance to the petitioner to contest the claim of respondent No.2 – *de facto* complainant by participating in the proceedings by setting aside the order under challenge. Learned

counsel would also submit that the petitioner would ensure that she would participate in the proceedings without causing any inconvenience to the Court.

5. Learned counsel for the petitioner, fairly, admits that the petitioner did not present herself when the said application was moved before the learned Magistrate and the learned counsel could not assign any reason, of course.

6. Be that as it may, since the petitioner is now coming forward, though, she did not approach the Court at an appropriate occasion soon after her husband became alright or atleast nearer to normal condition, she is given an opportunity to approach the learned Special Judicial Magistrate of First Class (Prohibition and Excise Cases), Khammam, and make yet another application of the nature, already made under Section 70(2) of the Code and seek relief. In case, such an application is made by the petitioner, the learned Magistrate is directed to dispose of the same on the same day in accordance with law.

7. With the above directions, the Criminal Petition is disposed of. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

A. SHANKAR NARAYANA, J

March 10, 2017.
MD