

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.1766 OF 2017

ORDER:

A request made herein by the petitioner/*defacto* complainant reads thus:

“Therefore, it is prayed that this Hon’ble Court may be pleased to set aside the docket order dated 21.02.2017 and direct the IX-Additional Chief Metropolitan Magistrate, Hyderabad to continue the proceedings in accordance with Code of Criminal Procedure in the interest of law, failing which irreparable loss will be caused to the petitioner.”

2. The said request is made under Section 482 of Cr.P.C. since the petitioner herein got aggrieved over the order dated 21.02.2017 in Criminal M.P.No.2183 of 2014 in Crime No.313 of 2012 on the file of Chandrayangutta P.S., South Zone, Hyderabad. The order passed by the learned Magistrate reads thus:

“Due to heavy rush of work. On transfer of Steno for some period, order could not be pronounced. *Suo motu* reopened for fresh hearing. Call on 7.3.2017.”

3. Learned counsel for the petitioner, Sri H. Prahalada Reddy, would submit that on transfer of Steno for some period and heavy rush of work are not the grounds to *suo motu* reopen for fresh hearing. Learned counsel expresses the view that the order passed by the learned Magistrate would amount to starting afresh from the stage of cross-examining nine witnesses again who were already examined.

4. It is true, heavy rush of work and transfer of Steno for some period cannot be the grounds to reopen for fresh hearing. Thus, the order, *ex facie*, is patently illegal.

5. Now, the question is from what stage the proceedings ought to be taken up.

6. Learned Magistrate ought to express in clear terms whether he inclines to hear arguments again in case, due to interregnum he may not be in a position to recollect, perhaps that appears to be the reason or intention of the learned Magistrate. Even otherwise, certainly, a direction need to be given to the learned Magistrate directing him to continue the proceedings under the Code of Criminal Procedure from the stage of passing the order dated 21.2.2017.

7. Learned counsel, now, would submit, on instructions, from his counterpart that the learned Magistrate on promotion has left the office and a new Presiding Officer has taken over the charge. Therefore, it is desirable for the learned Counsel on record before the Court below to tender arguments before the present Presiding Officer, which would be appropriate.

8. Accordingly, the present Criminal Petition is allowed with the observation as indicated above. Learned counsel on record before the Court below would tender arguments within a month from today and the IX-Additional Chief Metropolitan Magistrate, Hyderabad would dispose of the matter within a fortnight thereafter.

9. Consequently, miscellaneous petitions if any pending in the criminal petition shall stand closed.

A. SHANKAR NARAYANA, J

Dt. 01.03.2017

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