

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.1981 of 2017

JUDGMENT:

This Criminal Revision Petition, under Section 397 and 401 of Cr.P.C, is filed questioning propriety, legality and regularity of the Order passed by II Additional Chief Metropolitan Magistrate at Vijayawada in C.C.No.341 of 2015 by Order dt. 23.03.2017, rejecting the Memo filed by the Appellant herein.

The Appellant herein filed a Memo Dt.18.02.2016, which reads as follows:

“ It is respectfully submitted that the above case stands posted to today for trial. In fact, the original complaint was filed by the complainant before II Additional Chief Metropolitan Magistrate, Vijayawada and thereafter, it was transferred to this Court for trial.

It is submitted that as per the amendment under Section 142-A, all the cases pertaining to the offences under Section 138 NI Act shall be transferred to the Court having original jurisdiction under Sub Section (2) of Section 142 of NI Act. The amendment came into force on 15th June, 2015.

‘ VALIDATION FOR TRANSFER OF PENDING CASES” 142-A’

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2) of 1974) or any judgment, decree, order or directions of any Court, all cases arising out of Section 138 which were pending in any Court, whether filed before it, or transferred to it, before the commencement of the Negotiable Instruments (Amendment) Act, 2015, shall be transferred to the Court having jurisdiction under sub Section (2) of Section 142 as if had sub section had been in force at all material times.

It is submitted in view of the recent amendment, the accused is filing this Memo for transfer of the above CC to the Hon'ble II Additional Chief Metropolitan Magistrate, Vijayawada, for trial and disposal and the accused is filing a copy of Gazettee along with this Memo”

In the said Memo, the learned counsel for Appellant requested for transfer of the matter to the Court having jurisdiction, but the trial Court rejected the Memo by Order dt.23.03.2017.

Aggrieved by the Order dt.23.03.2017, the present Revision is filed on various grounds.

The learned counsel for the Appellant expressed his inability to advance his arguments for one reason or the other and therefore, I am constrained to pass the following Order:

Sri Kilaru Nithin Krishna, learned counsel appearing for the Appellant represented in utter disregard of his responsibility that he did not have bundle and requested the Court to adjourn the matter. Appearing before the Court without record and requesting for adjournment is highly depreciable. However, this Court is bound to pass the Order in accordance with law.

The Memo Dt.18.02.2016 is filed before the Court with a request to transfer C.C.No.341 of 2015 to II Additional Chief Metropolitan Magistrate, Vijayawada.

As per the decision of this Court in *Syed Yousuf Ali v. Mohammad Yousuf and others*¹, no judicial order can be passed on a Memo, since it is an intimation and it is neither contemplated under Code of Civil Procedure nor under Civil Rules of Practice.

In view of the principle laid down in the above Judgment, the Memo dt. 18.02.2016 is only an intimation to the Court about certain facts to take note of the same. But, no judicial order can be passed on a Memo. Therefore, the rejection of Memo by the trial Court is, in accordance with law, and such rejection does not call for any interference by this Court while exercising power under Sections 397 and 401 of Cr.P.C.

Accordingly, this Criminal Revision Case is dismissed.

¹ 2016(2) ALT 557

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

Date: 07-08-2017.
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Dt. 07-08-2017

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