

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.2675 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 27.12.2016, passed in CrI.M.P.No.2036 of 2016 in C.C.No.333 of 2015 on the file of Judicial Magistrate of First Class, Tekkali (Full Additional Charge), Palasa, Srikakulam District, and to direct the respondent to deposit the seized amount of Rs.10,95,000/- in any nationalised bank.

2. Heard Sri K.B. Ramanna Dora, learned counsel for the petitioner, and learned Public Prosecutor for the State of Andhra Pradesh.

3. The facts are not in dispute. The amount of Rs.10,95,000/- seized under confessional/recovery panchanama, at the instance of one of the accused, who is one of the partners of the petitioner – firm i.e., M/s. Sri Laxmi Enterprises, represented by its partners viz., Penta Srinivasa Raju and others, was deposited in Court of learned Judicial Magistrate of First Class, Tekkali (Full Additional Charge), Palasa. The learned Magistrate has directed the Station House Officer, Kasibugga Police Station, to have the custody of the seized amount, perhaps, with a direction to produce the amount as and when the same is required to be marked as material object.

4. While the things stood thus, the petitioner - firm has filed the present Crl.M.P.No.2036 of 2016 seeking interim custody of the seized amount, in view of demonetization policy taken by the Government of India, expressing that it would abide by the conditions that would be imposed by the Court and would produce value of the case property i.e., cash of Rs.10,95,000/- as and when directed by the Court. The learned Magistrate, by the order under challenge, having considered the request and having heard both sides, opining that, at that stage, it cannot be said as to who is the owner of the property seized and the right of entitlement of the petitioner – firm, rejected the request.

5. Learned counsel for the petitioner would point out that the Reserve Bank of India is accepting the old currency notes till 30.06.2017 and, therefore, if a direction is given, the said amount would be deposited in the Reserve Bank of India and the old currency notes can be substituted with the currency notes in circulation, of course, besides making other request as mentioned in the above.

6. Learned Public Prosecutor would submit that the Station House Officer, who is in custody of the seized amount pursuant to the orders passed by the learned Magistrate, has filed a Memo on 19.11.2016 and yet another Memo on 23.12.2016, before the learned Magistrate requesting to pass orders to take further action on the

banned currency notes i.e., Rs.500/- and Rs.1,000/- denominations in the amount of Rs.10,95,000/-, but no orders are passed yet on the said Memos.

7. When Memos were filed, pursuant to the policy taken by the Government of India demonetising the currency notes of Rs.500/- and Rs.1,000/- denominations, the learned Magistrate ought to have passed orders on either of the Memos filed by the Station House Officer, atleast, on the second Memo, keeping in view, the demonetisation of old currency notes. Even now, it is not late and the learned Magistrate can pass appropriate orders on the said Memos or on Memo, dated 23.12.2016, in view of the submission made by the learned counsel for petitioner that the Reserve Bank of India is accepting the demonetised/banned currency notes of denominations Rs.500/- and Rs.1,000/- till 30.06.2017. Hence, a direction can be given to the learned Judicial Magistrate of First Class, Tekkali (Full Additional Charge), Palasa, to dispose of the Memos, dated 19.11.2016 and 23.12.2016.

8. So far as the request of the petitioner to quash the order under challenge is concerned, no doubt, firm is coming forward for return of the amount and making a request that it would produce the amount as and when directed by the learned Magistrate, but, when one of the Directors of the petitioner – firm is one of the accused persons,

an interim order of the nature sought for cannot be granted, as rightly observed by the learned Magistrate.

9. Hence, the Criminal Petition is disposed of with a direction to the learned Judicial Magistrate of First Class, Tekkali (Full Additional Charge), Palasa, to dispose of the Memos, dated 19.11.2016 and 23.12.2016, filed by the Station House Officer, who is in custody of the seized amount.

10. Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

April 06, 2017.

A.SHANKAR NARAYANA, J

Note: Registry is directed to furnish a copy of the order to the learned Magistrate within three days.

B/o.MD

