

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.16793 OF 2016

ORDER:

Heard learned counsel for the petitioner/defacto complainant of C.C.No.301 of 2009 (PW1) and also the learned counsel for 1st respondent/accused and the learned public prosecutor, representing the 2nd respondent – State and perused the grounds urged in the petition and the impugned order dated 28.10.2016 in CrI.M.P.No.1062 of 2016.

2. Undoubtedly, the petitioner/PW1 – defacto complainant was given interim custody of the property which is cash of Rs.27,80,909/-. The notice to accused is given at that time before passing of the order. It is only an interim custody, it will not have any influence on the final custody decision to be made by the court. In view of the contest of the accused also of his signature by then was obtained by court and not voluntarily subscribed a matter for appreciation from evidence if any and other attending facts for the court to decide in final custody. However, so far as the direction to deposit the said amount by the defacto complainant – PW1 who was given interim custody is concerned by virtue of the impugned order trial is completed and the matter is at the stage of arguments, once there is an undertaking given by the person who received interim custody of the property bound to

produce as it is only a custodial act and not a final disposal giving the property to him but for to say whether there is any necessity now to produce or not.

3. In view of the facts, for nothing to show for the arguments purpose, it requires to be produced and even not produced, it is not the interdicting of the final disposal regarding the property as to decide who ever entitled and if at all entitled by the accused or to disposal otherwise other than entitlement by PW1, in the very judgment, the court can pass an order including to direct the PW1 to produce after pronouncement of judgment within one week and in the event of failure to enforce for its recovery as if a fine or compensation by taking the steps or recourse for levy, pursuant to the order under Section 421 r/w 431 Cr.P.C. and Section 53 IPC.

4. With the above observations, this criminal petition is disposed of. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO,J

24.08.2017
SS