

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL PETITION No. 4191 OF 2017

ORDER:

This criminal petition, under Section 482 of the Code of Criminal Procedure, 1973, is directed against the docket order, dated 10.05.2017, of the learned Principal Special Judge for CBI Cases, Hyderabad, passed in CrI.M.P.No.784 of 2017 in C.C.No.27 of 2014.

2. I have heard the submissions of Mrs. K. Seshrajyam, learned senior counsel appearing for Mrs. Deepika Gadde, learned counsel for the petitioner, and of the learned Special Public Prosecutor appearing for the respondent.

3. I have perused the material record.

4. The facts, which are necessary to be stated as a prelude to this order, in brief, are as follows:

According to the petitioner/accused no.13, on 18.04.2017, he was produced, for medical examination, before the Doctors of the Institute of Mental Health, Erragadda, as per the orders, dated 12.04.2017, of the trial court and that at that time, he was advised to join the hospital after ten days. However, according to the further submissions made on behalf of the petitioner, he could not join in the hospital, as directed, on account of the marriage of his grand daughter, which was by then fixed to be performed, on 04.05.2017, at Bhimavaram. It is apt to note that his petition for granting time for one month in that regard was dismissed by the trial court. Thereafter, the petitioner filed the afore-stated miscellaneous

petition before the trial court to give him one more opportunity to join the hospital for medical examination as advised earlier by the Doctors of the said hospital. The prosecution resisted the said application by *inter alia* stating that the investigation is completed and charge sheet is filed and that the petitioner voluntarily and wilfully postponed his admission into the hospital and that he made bald statements about his health and that, therefore, there is no *prima facie* case made out for granting his request. On merits and by the order impugned in this revision, the trial court dismissed the petition of the petitioner observing that an earlier application was dismissed as the petitioner deliberately avoided making himself available for medical examination and, therefore, a second request cannot be entertained and that there is no merit in the contentions of the petitioner. Therefore, the petitioner is before this court.

5. Learned senior counsel appearing for the petitioner, while reiterating the case of the petitioner, which is already stated *supra*, *inter alia* submits that petitioner is suffering from Alzheimer's disease, Dementia and Unsound Mind and, therefore, his medical examination as an inpatient as earlier advised by the Doctors is absolutely necessary and, hence, considering his health condition, an opportunity may be provided to him for his medical examination as an inpatient.

6. Learned Public Prosecutor, while reiterating the case of the prosecution, which is also stated *supra*, submits that the petitioner made bald allegations about his health and his request does not merit consideration.

7. Earlier, when an attempt was made to have the petitioner medically examined to ascertain his health condition, the said attempt did not fructify for the reasons stated by the petitioner. The law is fairly well settled that unless the petitioner/accused no.13 is of sound mind, the trial court cannot proceed further in the matter and try the accused no.13/petitioner herein. Whenever there is a reason to believe that the person against whom the trial has to be held is of unsound mind and consequently incapable of making his defence, it is necessary for the Court concerned to make an enquiry into the fact of such unsoundness of mind and the Court is also empowered to cause such person to be examined by a competent medical officer of the Government and obtain a report with the opinion of such medical officer. Hence, this Court is of the considered view that ends of justice would be met if the preset request of the petitioner is considered.

8. In the result, the Criminal Petition is allowed and the impugned order passed by the trial court is set aside and accordingly the petitioner – Accused no.13 is directed to appear before the Superintendent, Mental Hospital, Erragadda, on 14.06.2017 at 10:30 AM for his examination by a panel of doctors that may be constituted by the Superintendent of the said Hospital. It is needless to mention that depending upon the report of the panel of Doctors, the Superintendent of the hospital shall take further course of action in the matter as to the admission or otherwise of the petitioner into the hospital and his further treatment. It is made clear that a competent officer of the CBI may also be present at the hospital at the afore-stated appointed time and date to follow the procedures at the hospital, to the extent permissible. The Superintendent of the Hospital is

directed to forward, as expeditiously as possible, the report of the panel of doctors made on 14.06.2017 about the health condition of the petitioner/accused no.13 to the Court of the learned Principal Special Judge for CBI Cases, Hyderabad.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

JUSTICE M. SEETHARAMA MURTI

June 9, 2017

Note:-

Furnish copy by 12.06.2017.

{B/o}

LMV

