

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.3125 OF 2017

JUDGMENT:

The present Criminal Revision Case is preferred under Sections 397 and 401 of the Code of Criminal Procedure, 1973, by the complainant viz., A. Raghunadh, aggrieved of the order dated 04.10.2017 in Criminal M.P. No.3039 of 2017 in C.C. No.1270 of 2014, passed by the learned II Additional Munsif Magistrate, Ongole.

2. Again, Sri S.M. Subhani, learned counsel for respondent Nos.2 and 3, seeks adjournment.

3. Sri K. Mohan Rami Reddy, learned counsel for the revision petitioner - complainant, would submit that pursuant to the directions given by the learned Judge, Family Court, Ongole, while suspending the sentence of imprisonment for the offence punishable under Section 138 of Negotiable Instruments Act, 1881, ordered to deposit 1/4th of the fine amount of Rs.6,50,000/- and the same was deposited. The learned counsel would submit that when the aforesaid application was filed before the learned trial Court for withdrawal of the said amount, the learned Magistrate passed refusal order dated 04.10.2017, observing that there is no specific order recording return of deposited amount and dismissed the petition.

4. The learned counsel placed reliance on the order in alike situation passed by this Court in Criminal R.C. No.156 of 2017 dated 10.03.2017. The order reads thus:

“Aggrieved by the dismissal order dated 27.12.2016 passed by the Special Judicial Magistraet of First Class, Excise Court, Ongole in Crl.M.P. No.6759 of 2016 filed for return of Rs.7,50,000/- lying on its file in C.C. No.262 of 2014, this Criminal Revision is filed by the petitioner/complainant.

Heard both sides.

The Criminal Revision Case is allowed setting aside the impugned order and Crl.M.P. No.6759 of 2016 is allowed permitting return of the amount to the complainant/revision petitioner, subject to an undertaking to restitute by re-payment in the event of success of the appellant/accused before the lower appellate Court.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed.”

5. In terms of the above order, the present Criminal Revision Case is allowed, at the admission stage itself, setting aside the order under challenge and Criminal M.P. No.3039 of 2017 is allowed permitting return of the amount to the revision petitioner - complainant subject to an undertaking to restitute by re-payment in the event of success of the appellants - accused before the lower appellate Court.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the present revision case stand closed.

A. SHANKAR NARAYANA, J

December 26, 2017.

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