

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No. 54 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'Cr.P.C.') to quash the order dated 05-12-2017 in unnumbered criminal miscellaneous petition in C.C.No. 413 of 2015 on the file of the Court of I Additional Judicial Magistrate of I Class, Proddatur (for short, 'the Court below').

2. The petitioner is the accused in the abovementioned C.C. for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The petitioner filed an application before the Court below under Section 70 (2) Cr.P.C. to recall the non-bailable warrant dated 12-10-2017 issued against him. The office raised an objection about maintainability of the petition without appearance of the petitioner along with the petition. The petitioner represented it by informing that his presence is not required in view of the law declared by this Court in ***Ramakrishna Agencies, Guntur, Vs. State of A.P.***¹ but the Court below passed a cryptic order which is impugned in this petition.

3. When the petitioner represented the petition based on the law declared by this Court, the Court below has to pass an order on merits. The Court below did not deal with the petition in the manner it ought to have. The impugned order is not in accordance with law and the same is liable to be set aside and is accordingly set aside. The Registry is directed to return the original petition and other relevant papers to the petitioner enabling the latter to represent it before the Court below and on such representation, the Court below is directed to dispose of the same in accordance with law.

¹ 2000 (1) L.S. 78

4. The criminal petition is accordingly allowed. Pending miscellaneous petitions, if any, in this criminal petition shall stand closed in consequence.

Date: 04-01-2018.

JSK

M.SATYANARAYANA MURTHY, J.

