HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.48 of 2018

ORDER:

Heard the learned counsel for the parties.

The present revision case is filed questioning the orders passed in C.C.No.407 of 2017 dated 18.12.2017 on the file of the XV Special Magistrate, Hyderabad, dismissing the complaint under Section 204(4) Cr.P.C., for non-deposit of process.

The facts of the case are that the petitioner is the complainant and originally he filed C.C.No.718 of 2017 against respondent Nos.1 and 2 for the offence under Section 138 of the Negotiable Instruments Act on the file of the I Additional Chief Metropolitan Magistrate at Nampally. However, the said case has been subsequently transferred to the Court of the XV Special Magistrate, Hyderabad, vide C.C.No.407 of 2017. After the matter has been transferred to the later Court, no notice has been issued to the petitioner or his counsel. Therefore, the petitioner was not aware of the jurisdiction of the matter as well as listing of the case on 18.12.2017. However, on 18.12.2017, as there was no representation and process also not paid for issuance of the summons to the accused, though waited till 4.00 p.m., the complaint was dismissed. Aggrieved by the said orders, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that originally the calendar case was filed in the Court of the I Additional Chief Metropolitan Magistrate at Nampally and subsequently it has been transferred to the Court of the XV Special Magistrate, Hyderabad, vide C.C.No.407 of 2017. When the case

has been transferred to the said Court, no notice has been issued to the petitioner. In those circumstances, there was no representation and as such process could not be paid for issuance of summons. The above said act of non-representation and non-deposit of process of issuance of summons to the accused is not intentional, but only due to the reasons stated supra. Learned counsel also submitted that the matter was listed before the transferee Court for the first time and even on that count, the petitioner may be given an opportunity to deposit the process and prosecute the complaint.

Having heard both the counsel and a perusal of the material on record, it is revealed that the present complaint is filed for dishonour of a cheque issued for a sum of Rs.50,00,000/- and when the matter has been transferred, no notice has been served on the petitioner or his counsel. If the petitioner is not permitted to prosecute the case, his rights will be seriously prejudiced. Not only the same, but the calendar case is also of the year 2017. As such, this Court deems it appropriate to give an opportunity to the petitioner to deposit the process and prosecute the case.

Accordingly, the revision case is allowed, setting aside the orders passed in C.C.No.407 of 2017 dated 18.12.2017 on the file of the XV Special Magistrate, Hyderabad, enabling the petitioner to deposit the process and prosecute the case.

Miscellaneous petitions, if any, shall stand closed.

P. KESHAVA RAO, J

Date: 19.07.2018.
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