

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL REVISION CASE No. 2166 OF 2018

ORDER:

1. Heard learned Counsel for the petitioner, learned Additional Public Prosecutor appearing for the second respondent-State. Perused the material on record.

2. This Criminal Revision Case is filed aggrieved by the order dated 24.1.2018 passed in CC.No.109 of 2015 on the file of learned Special Magistrate, Karimangar, dismissing the complaint filed by the petitioner for non payment of process fee as required under Rule 235(2) of Criminal Rules of Practice and not taking appropriate steps for execution of NBW on first respondent/accused.

3. Learned Counsel for the petitioner submits that the petitioner/complainant has paid the process fee on 2.1.2018 in pursuance of NBWs issued on 29.12.2017 and the trial Court without taking into consideration of the same, simply dismissed the complaint.

4. As can be seen from the material on record, it is axiomatic that the trial Court issued NBW against the respondent/accused on 29.12.2017, pursuant to which, the petitioner/complainant as paid the process fee, as required under Rule 235(2) of Criminal Rules of Practice, on 2.1.2018. The

petitioner also filed 'Process Fee Payment Form' evidencing payment of process fee in CC No.109 of 2015. However, when the case was called on 24.01.2018, neither the parties on either side nor their counsel present before the trial Court. The trial Court was of the view that the petitioner/complainant has not paid the process fee as required under Rule 235(2) CrI.R.P. and that the petitioner/complainant did not take steps for execution of NBW on the respondent/accused. But a perusal of the record shows that the petitioner/complainant has paid the requisite process fee on 2.1.2018 itself. In view of the same, the impugned order of the trial Court dated 24.01.2018 is liable to be set aside.

5. In the result, the Criminal Revision Case is allowed at the admission stage itself while setting aside the order dated 24.1.2018 in CC.No.109 of 2015 on the file of learned Special Magistrate, Karimangar. Consequently, the complaint/CC.No.109 of 2015 is ordered to be restored to its file and the trial Court is directed to proceed with the matter, in accordance with law.

6. Miscellaneous petitions pending consideration if any in the Criminal Revision Case shall stand closed in consequence.

JUSTICE N. BALAYOGI

DATED 23rd February, 2018.
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