

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.5396 OF 2018

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the docket order dated 09.04.2018 passed in C.C.No.120 of 2015 on the file of Judicial Magistrate of First Class, Amadalavalasa, whereby the Court directed all the accused to appear before the Court on 14.05.2018.

Learned counsel for the petitioners contended that a petition CrI.M.P.No.947 of 2018 was filed before the Court below under Rule 37 of Criminal Rules of Practice to represent the other accused by accused Nos.1 and 6 and the same is pending before the Court below. There is a reference about filing of petition in the order dated 09.04.2018. Basing on which, he contended that insisting all the accused to appear before the Court on 14.05.2018 is illegal and requested to quash the docket order dated 09.04.2018 passed in C.C.No.120 of 2015.

It is an admitted fact that the petitioners filed a petition CrI.M.P.No.947 of 2018 in C.C.No.120 of 2015 and it is pending before the Magistrate for consideration. No order has been passed till date permitting accused No.1 to represent accused Nos.2 to 5 and permitting accused No.6 to represent accused Nos.7 to 9.

The Magistrate passed an order dated 20.02.2018 directing all the accused to appear before the Court on 16.03.2018, thereafter on 16.03.2018 when the Presiding Officer was on other duty, the matter was adjourned to 09.04.2018. On that day, the impugned order was passed. Therefore, the pendency of the petition under Rule 37 of Criminal Rules of Practice is not sufficient to dispense with the appearance of the petitioners, until the order is passed, permitting accused No.1 to represent accused Nos.2 to 5 and permitting accused

No.6 to represent accused Nos.7 to 9. Therefore, the petitioners cannot claim any immunity from appearing from the Court on the dates of adjournment. Therefore, on the ground that the Crl.M.P.No.947 of 2018 is pending before the Magistrate, the impugned order passed by the Magistrate cannot be set aside. However, the Magistrate concerned is directed to pass appropriate orders in accordance with law on the petition Crl.M.P.No.947 of 2018 filed by the petitioners herein under Rule 37 of Criminal Rules of Practice within 10 days from the date of receipt of a copy of this order.

With the above direction, the criminal petition is disposed of. No costs.

Consequently, miscellaneous petitions pending, if any, shall also stand closed.

08.06.2018

Note:
Issue C.C. in one week.
B/o
Ksp

JUSTICE M. SATYANARAYANA MURTHY

