

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.12719 of 2017

ORDER

This petition is filed under Section 482 Cr.P.C., to quash the order dated 27.11.2017 passed in Crl.M.P.No.1367 of 2017 in C.C.No.60 of 2012 by the XI Special Magistrate, L.B.Nagar at Hastinapuram, Ranga Reddy District.

2. The petitioner herein is the complainant in C.C.No.60 of 2012 on the file of II Special Magistrate, Kukatpally at Miyapur, Ranga Reddy District, now designated as XI Special Magistrate, L.B.Nagar at Hastinapuram. After due trial, the first respondent/accused was found guilty for the offence punishable under Section 138 of Negotiable Instruments Act, 1881, convicted and sentenced to undergo simple imprisonment for a period of three months and to pay a sum of Rs.46,00,000/- to the complainant as compensation under Section 357 of Cr.P.C., within one month, in default to pay such compensation, he shall undergo three months simple imprisonment vide judgment dated 05.03.2014. Aggrieved by the said conviction and sentence and for grant of additional amount of compensation i.e., Rs.16,00,000/- in stead of the cheque amount of Rs.31,00,000/, the first respondent preferred an appeal in Crl.A.No.211 of 2014 on the file of V Additional Metropolitan Sessions Judge, Ranga Reddy District at L.B.Nagar, Hyderabad. The appellate Court vide judgment dated 13.04.2016 directed the first respondent to pay a sum of Rs.31,00,000/- as compensation within the stipulated time, but the respondent did not comply with the

said direction. Therefore, the petitioner initiated proceedings under Section 431 of Cr.P.C. But the Court below held that passing any order under Section 431 of Cr.P.C., amounts to interfering with the proceedings before the High Court and dismissed the petition. Aggrieved by the said order, the petitioner filed the present petition.

3. During hearing, learned counsel for petitioner contended that the finding recorded by the Court below is erroneous as the petitioner is entitled to collect the compensation amount by invoking jurisdiction under Section 431 of Cr.P.C., and that this Court has already passed order dated 03.10.2017 in Crl.R.C.M.P.No.3994 of 2017 in Cr.R.C.No.1085 of 2016, permitting the petitioner to invoke the jurisdiction under Section 431 of Cr.P.C., before the Court below for failure of the respondent to comply with the order passed by the appellate Court.

4. In view of the order dated 03.10.2017 passed by this Court in Crl.R.C.M.P.No.3994 of 2017 in Cr.R.C.No.1085 of 2016 permitting the petitioner to invoke the jurisdiction under Section 431 of Cr.P.C., the observation made by the Court below that passing any orders in the petition amounts to interference with the order passed by this Court is erroneous on the face of the record. Therefore, the order passed by the Court below is hereby set aside while remanding the matter to the Court below to hear and pass appropriate orders keeping in mind the order passed by this Court in Crl.R.C.M.P.No.3994 of 2017 in Cr.R.C.No.1085 of 2016, within one month from the date of receipt of a copy of this order.

5. With the above direction, the Criminal Petition is allowed.
Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

6^h August, 2018

sj

