

IN THE HIGH COURT OF KARNATAKA, BANGALORE

DATED THIS THE 29TH DAY OF JULY 2009

BEFORE

THE HON'BLE MR. JUSTICE SUBHASH B ADI

CRL.P No.5240 OF 2007

BETWEEN

SRI DIVYESH SODHA  
SON OF RAMESH SODHA  
AGED ABOUT 40 YEARS  
PROPRIETOR,  
HORIZON TRAVEL, NO.2, I MAIN ROAD,  
SAMPANGIRAMANAGARA  
BANGALORE-560 027.

... PETITIONER

(By SRI SUNDARASWAMY RAMDAS & ANAND, ADVS.)

AND

SRI MUKESH MOHANLAL TALREJA,  
FATHER'S NAME NOT KNOWN TO THE  
COMPLAINANT, MAJOR, NO.7/10,  
KUMARA PARK WEST, 'LAXMI NIVAS'  
WEST PARK ROAD, BANGALORE-560 001

NOW RESIDING AT

NAMRATHA APARTMENT,  
NO.45, II MAIN  
PALACE GUTTAHALI,  
BANGALORE - 560003.

... RESPONDENT

THIS CRL.P FILED U/S.482 CR.P.C BY THE  
ADVOCATE FOR THE PETITIONER PRAYING THAT THIS  
HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE  
ORDER PASSED BY THE XIX ADDL. C.M.M DT.29.12.2006  
IN C.C.NO.16488/03.

THIS PETITION COMING ON FOR ORDERS THIS DAY,  
THE COURT PASSED THE FOLLOWING:

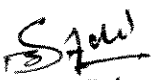
ORDER

Though the matter is posted for orders regarding payment of process to the respondent, the matter is taken up for final disposal.

2. The petitioner has called in question the order dated 29.12.2006 passed in C.C.No.16488/2003 on the file of the XIX Addl. C.M.M., Bangalore. On 29.12.2006, the learned Magistrate has dismissed the complaint on the ground that the warrant is not executed and no further steps are taken by the complainant.

3. Since the accused has not been served before the learned Magistrate, though this court by order dated 31.5.2008 had issued notice to the respondent, since NW is not executed against the accused before the learned Magistrate, no purpose would be served in issuing notice to the respondent. Hence, notice to respondent is dispensed with.

4. On 29.12.2006 complainant was present before the learned Magistrate. On behalf of the complainant, a memo is filed stating that, as the



accused had gone abroad, NBW could not be executed and he would be returned in the mid of January 2007. Despite the memo, complaint has been dismissed.

5. Considering the circumstances and also considering that the complainant had taken steps to execute the warrant, I am of the view that the petition could be allowed.

6. Accordingly, the petition is allowed. The order of dismissal passed in C.C.No.16488/2003 dated 29.12.2006 is set aside. The petitioner is directed to take effective steps to get the warrant executed against the respondent, the learned Magistrate is directed to proceed with the matter from the stage when the complaint was dismissed.

Sd/-  
Judge

MSU