

**HONOURABLE SRI JUSTICE RAJA ELANGO**  
**CRIMINAL APPEAL No.824 of 2015**

**JUDGMENT:**

1. This appeal is filed by the complainant challenging the order dated 26.6.2015 passed by the Special Magistrate, Court No.III, Kukatpally at Miyapur, in C.C.No.10 of 2015.

2. The appellant filed a complaint in the above C.C. against the respondents for the offence punishable under Sections 138 and 142 of the Negotiable Instruments Act. The learned Magistrate issued NBWs against the accused and also appointed an advocate-commissioner to execute the warrants issued against the accused. The execution of NBWs is pending. While so, on 26.6.2015 the learned Special Magistrate dismissed the complaint. Aggrieved by the same, the present appeal is filed.

3. Heard and perused the material available on record.

4. The order under appeal reads as follows:

“In this case though more than seven years have been lapsed and in spite of giving several opportunities and notice to the complainant, no steps have been taken to deposit process and to get NBWs executed against the accused. Hence, the Court feels that no useful purpose will be served by adjourning the case in the absence of both the parties and keeping pending this case on file without any progress.”

It was also observed in the order under revision that an advocate-commissioner was also appointed on 10.4.2015 to execute the NBWs against the accused. Since 20.4.2015, the complainant and the Counsel for the complainant are not appearing and not depositing warrant extension process fee.

5. Learned Counsel for the appellant submitted that NBWs are pending against the respondents and that the appellant-complainant also deposited the fees of the advocate-commissioner in the Court below and that the absence of the complainant before the trial Court is not willful.

6. Considering the facts and circumstances of the case and the submissions made by the learned Counsel for the appellant, this Court is inclined to restore the above C.C.

7. Accordingly, the Criminal Appeal is allowed setting aside the order dated 26.6.2015 passed in C.C.No.10 of 2015 by the Special Magistrate, Court No.III, Kukatpally, Miyapur. Consequently, the above C.C. is restored and the learned Magistrate is directed to proceed in accordance with law. Miscellaneous petitions pending, if any in this appeal, shall stand closed.

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**RAJA ELANGO, J**

**2<sup>nd</sup> August, 2016**

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**HONOURABLE SRI JUSTICE RAJA ELANGO**

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**2.8.2016**

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