

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Crl.P.No.15934 of 2014

ORDER :

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/accused to set aside the order dated 19.11.2014 in Crl.M.P.No.1895 of 2014 in C.C.No.308 of 2013 passed by the learned XXII Special Magistrate, Hyderabad.

2. Heard the learned counsel for the petitioner so also the learned Public Prosecutor representing State-1st respondent before admission and the 2nd respondent even served with notice failed to attend and taken as heard and perused the material on record.

3. The C.C.No.308 of 2013 which is outcome of the private complaint of the 2nd respondent-entity taken cognizance by the learned Magistrate for the offence under Section 138 of the Negotiable Instruments Act (for short, 'the Act') and it is during the trial, while defence evidence is in progress, the petitioner, after filing of the chief affidavit of the D.W.1, filed Crl.M.P.No.1895 of 2014 under Section 311 of the Cr.P.C. seeking to receive some documents which are 5 in number showing those are material as part of defence before commencing cross-examination for exhibiting in further chief examination. In fact, the documents 5 in number are referred in the application and the respondent-complainant filed counter opposing same saying some of the documents are photostat copies and originals not produced but for saying those are important and crucial but no explanation is given as to why not filed earlier and it is nothing but to drag on the proceedings to the extent possible and pursuant to the said contest the learned Magistrate by impugned order dated 19.11.2014 dismissed the application saying the petitioner did not state how the documents are relevant.

4. It is the submission of the learned counsel for the petitioner that

in the chief-examination of D.W.1 referred about 34 documents of which the trial Court exhibited ten documents in saying other documents are not originals and not allowed to mark the photostat copies and these are the 5 documents as submitted referred in the chief affidavit regarding the relevancy to say as part of the plea of the discharge of the cheque amount and the same is mis-utilized by the complainant's entity and in the parallel chits running by them and thereby the documents are relevant.

5. Having regard to the above and as cross-examination of the D.W.1 not yet commenced, the **Criminal Petition is allowed** by setting aside the order, dated 19.11.2014 in CrI.M.P.No.1895 of 2014 in C.C.No.308 of 2013 passed by the learned XXII Special Magistrate, Hyderabad and directing the trial Court to receive the documents and permit further chief examination of D.W.1 to exhibit the above documents with no objection regarding admissibility, relevancy and proof, to decide ultimately.

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

Dr. B. SIVA SANKARA RAO, J

26th October, 2015.
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