

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

CRIMINAL REVISION CASE No.1563 of 2015

Between:

A.Archana

..... PETITIONER-A2

AND

1.Chinthala Danaraj Reddy
2.State of Telangana, represented by
Public Prosecutor, High Court, Hyderabad

.....RESPONDENTS

DATE OF JUDGMENT PRONOUNCED: 05.08.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 2. | Whether Their Ladyship/Lordship wishes to see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRL.R.C.No.1563 of 2015

JUDGMENT:

This Criminal Revision Case is directed against the order of the learned XII Special Magistrate, Erramanzil, Hyderabad, dated 23.07.2015 dismissing CrI.M.P.No.1389 of 2015 in C.C.No.365 of 2014 filed by Accused No.2, who is the revision petitioner herein.

The 1st respondent herein filed a complaint against the revision petitioner-A2 and another for the offence punishable under Section 138 of the Negotiable Instruments Act and the same was taken on file by the Court below as C.C.No.365 of 2014. In the said case, the 1st respondent-complainant was examined as P.W.1 and the matter is coming up for examination under Section 313 Cr.P.C. At that stage, the petitioner-A2 filed the aforesaid petition under Section 311 Cr.P.C. for recalling P.W.1 for the purpose of further cross-examination on certain material aspects. The learned Magistrate, on a consideration of entire material available on record, dismissed the said petition by order dated 23.07.2015. It is against this order, the present revision has been filed by Accused No.2.

Learned Counsel appearing for the petitioner submitted that the revision petitioner must be given reasonable opportunity to defend herself and to rebut the presumption under Section 139 of the Negotiable Instruments Act. He further submitted that further cross-examination of P.W.1 on certain material aspects is very much essential in order to prove the innocence of the revision petitioner-A2.

The criminal jurisprudence requires sufficient opportunity to be afforded to the accused to put forth his defence and to cross examine the prosecution witnesses. In the present case, trial was commenced and the evidence of P.W.1 was over and the matter is coming up for examination of the accused under Section 313 Cr.P.C. and at that stage, the revision petitioner-A2 filed the present petition for recalling P.W.1 for the purpose of further cross-examination on certain material aspects as her previous Counsel had not cross-examined P.W.1 properly. In view of the facts and circumstances of the case and in view of the nature of offence, I feel that the revision petitioner-A2 be given an opportunity to further cross examine the prosecution witness i.e. P.W.1, however, subject to the following conditions;

- i) The revision petitioner-A2 shall complete the cross examination of prosecution witness i.e. P.W.1 on the same day when he is produced, without seeking any further adjournment;

- ii) The revision petitioner-A2 shall pay an amount of Rs.1,000/- towards costs to P.W.1 on the date of cross- examination.

With the above conditions, the Criminal Revision Case is allowed and the impugned order dated 23.07.2015 is set aside.

Miscellaneous petitions, if any, pending shall stand closed.

M.S.K.JAISWAL, J

05-08-2015
Gsn