

THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO

-

-

CRIMINAL PETITION Nos.2361 AND 2362 OF 2015

-

-

COMMON ORDER:

-

These petitions are filed under Section 482 Cr.P.C., to quash the docket order dated 12.01.2015 in CrI.M.P.Nos.7014 and 7013 of 2014, respectively, in C.C.No.1449 of 2012 on the file of the Additional Judicial Magistrate of First Class, Tiruvuru.

The petitioner in both these Criminal Petitions is the accused in the above C.C. filed by the 2nd respondent alleging that the petitioner had committed an offence punishable under Section 138 of Negotiable Instruments Act.

The petitioner filed CrI.M.P.No.7013 of 2014 to issue summons to a witness, by name Burri Rambabu, who is alleged to have attested Ex.P1 - promissory note. He contended that he did not execute Ex.P1 in favour of the 2nd respondent and unless the said Rambabu is examined, the petitioner would be deprived of a chance to prove his defence. Along with CrI.M.P.No.7013 of 2014, the petitioner filed CrI.M.P.No.7014 of 2014 to reopen the defence evidence.

Counter affidavit is filed in CrI.M.P.No.7013 of 2014 by the 2nd respondent contending that the case was posted to 05.06.2014 for the evidence of the petitioner/accused; after taking four adjournments from 05.06.2014, the petitioner examined himself as DW.1 on 08.07.2014; thereafter six further adjournments were taken by him, but he did not lead any further evidence and so his evidence was closed on 09.10.2014; the case is coming up for arguments and without availing opportunity at the appropriate stage and with a view to drag on the case, this petition is filed. It is further contended that if the attestor, Rambabu, would support the version of the accused, the accused can himself personally call him and examine him, but he did not do so. A counter affidavit opposing the reopening of the

evidence was also filed.

By separate orders, dated 12.01.2015, the Court below dismissed both the Criminal Miscellaneous Petitions. It held that the petitioner himself had admitted the execution of Ex.P1 and giving it to some other person by duly filling the date and the signature and when he himself had admitted the execution of Ex.P1, the question of examining the attesor of Ex.P1 would not arise.

Although learned counsel for the petitioner would submit that the orders passed by the Court below are erroneous, I am unable to agree with the said submission. Once the petitioner had admitted the execution of Ex.P1, the question of examining its attesor would be superfluous. Therefore, the Court below had rightly dismissed both the Criminal Miscellaneous Petitions.

I see no merit in the Criminal Petitions and the same are, accordingly, dismissed.

As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

**M.S.
RAMACHANDRA RAO, J**

Date:07.04.2015

KH