HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.68 of 2015

ORDER :

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

2. The petitioner herein seeks to set aside the order dated 15.11.2014 in Crl. M.P. No.3832/2014 in D.V.C. No.81/2013. The said petition, filed by the petitioner herein/complainant in D.V.Case, under Section 91 of the Code of Criminal Procedure seeking to call for the bank account statements of the first respondent to prove that the first respondent forced her to transfer amounts from her account to his bank account and on such transfer he (first respondent) transferred the amounts to the accounts of other respondents, was dismissed. The docket order dated 15.11.2014, shows the trial Court dismissed the said petition with the observation that the first respondent in his counter, himself admitted that the amounts from the account of the petitioner were transferred to his account and that he was not disputing the said fact and that there was no necessity to call for the account particulars of the first respondent, since the admitted fact need not be proved.

3. The learned counsel for petitioner submits that the purpose in calling for the bank accounts of the first respondent was not only to prove that the amounts from her account were forcibly transferred to the account of first respondent, but also to prove the further fact that after forcibly getting the amounts transferred from her account to his account, the first respondent again transferred the amounts from his account to the accounts of other respondents. The learned counsel further submits that in his counter the first respondent made partial admission to the effect that the amounts were transferred from the petitioner's account to his account and he has not admitted the fact that he transferred the amounts from his account to the accounts of other respondents. Therefore, for a comprehensive proof of all the aforesaid facts, it is necessary to call for the bank statements of the first respondent but unfortunately the trial Court dismissed the petition with the observation that in view of the admission of the first respondent there is no need to call for the account particulars.

4. In the light of the above submissions, a perusal of the petition and the counter of the first respondent (a copy of which is filed along with the present petition) would show that the first respondent only admitted about the transfer transactions from the petitioner's account to his account, but in para 4 of his counter he categorically denied about transferring the amounts from his account to the accounts of other respondents. In the light of his specific denial, the need arises for the petitioner to prove the said fact also. Therefore, there is a justification for the petitioner to call for the bank statements of first respondent as sought for by her in Crl.M.P.No.3832/2014. No prejudice will be caused to the first respondent if notice is not ordered in this petition.

5. Accordingly, this Criminal Petition is allowed and the order dated 15.11.2014 in Crl. M.P. No.3832/2014 in D.V.C. No.81/2013 passed by the learned XIX Metropolitan Magistrate, Cyberabad at Miyanpur, Kukatpally is set aside and the Crl. M.P. No.3832/2014 is allowed and the trial Court is directed to call for the documents sought for by the petitioner from the concerned Bank on the petitioner depositing summoning charges.

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

U. DURGA PRASAD RAO, J

Date: 20.01.2015
MVA