

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.992 of 2016

ORDER:

Questioning the order, dated 14.03.2016, passed in CrI.M.P.No.883 of 2016 in C.C.No.125 of 2015 on the file of the XXIII Special Magistrate, Hyderabad, wherein the said Court allowed the petition to recall PW.1 for cross examination, subject to complying with the conditions imposed in CrI.R.C.No.413 of 2016, the present Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C.

As seen from the record, the petitioner filed a private complaint against the second respondent herein for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The said case was taken on file as C.C.No.125 of 2015. Pending the said C.C. an application came to be filed by the accused for dismissal of the complaint stating that as the complainant is not a licenced money lender he cannot maintain the complaint. The said application was returned on the ground that the provision of law under which the application is filed has not been mentioned. Challenging the same, the accused preferred CrI.R.C.No.413 of 2016.

A perusal of the order passed in CrI.R.C.No.413 of 2016 would show that the counsel for the petitioner therein confined his argument only to the extent of cross examination of PW.1. It was urged that the earlier counsel was not able to cross examine the complainant on various aspects though a Division Bench of this Court while dismissing the PIL (SR) No.126243 of 2014 directed the petitioner to raise all contentions in defence in C.C.No.125 of

2015. Having regard to the said circumstances, this Court passed the following order:

“Considering the facts and circumstances of the case and in view of the nature of offence, this Court is of the view that an opportunity should be given to the petitioner to cross-examine the complainant. In view of the same, the petitioner is directed to file an application for further cross-examination of the complainant i.e., second respondent herein, and on filing such an application, the trial Court is directed to recall the second respondent and allow the petitioner to cross-examine the complainant by fixing a date. The petitioner shall pay costs of Rs.1,000/- (Rupees one thousand only) to the second respondent at the time of his examination before the trial Court.”

In view of the orders passed by this Court, the trial Court recalled PW.1 for cross examination subject to complying with the conditions of this Court. The said docket order is challenged by the complainant stating that this Court committed grave error in passing the impugned order, since various circumstances were not taken into consideration by this Court while passing orders in Crl.R.C.No.413 of 2016. It is to be noted that if the petitioner is aggrieved by the orders passed in Crl.R.C.No.413 of 2016, the remedy lies elsewhere. Any alteration of the order passed by this Court in Crl.R.C.No.413 of 2015, would amount to reviewing the order, which is impermissible under criminal law.

Further, a perusal of the impugned order dated 14.03.2016 would show that the learned Magistrate allowed the petition to recall the PW.1 subject to complying with the conditions imposed by this Court in Crl.R.C.No.413 of 2016. Since the order passed in Crl.R.C.No.413 of 2016 remained un-challenged till date, it cannot be said that the impugned order is illegal or incorrect.

Hence, I see no reasons to interfere with the impugned order.

Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions, if any, pending, shall stand closed.

C.PRAVEEN KUMAR,J

11.04.2016
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