

HONOURABLE SRI JUSTICE M.S.K. JAISWAL

CRIMINAL PETITION No. 13240 of 2016

ORDER:

The criminal petition is filed under Section 482 Cr.P.C. seeking to quash the order dated 17.8.2013 passed in CrI.M.P.No.466 of 2016 in DVC No.45 of 2013 on the file of learned IX Metropolitan Magistrate, at Miyapur, Cyberabad, Ranga Reddy District.

Heard the learned counsel appearing for the petitioner, the learned Additional Public Prosecutor representing the State and Sri Sridhar, learned Counsel appearing for Respondents 2 to 4.

It is stated that Respondents 2 to 4 herein filed DVC No. 45 of 2013 on the file of learned IX Metropolitan Magistrate, Cyberabad, at Kukatpally seeking maintenance and compensation. Thereafter, the second respondent/wife filed suit in O.S.No. 27 of 2014 against the petitioner/husband for damages on the file of the Family Court, LB Nagar, RR District. After filing the counter in the DVC, the said suit was transferred to the Court of XV Additional District & Sessions Judge-cum-Family Court, RR District, at Miyapur. In the DVC case, second respondent herein/wife closed her evidence on 4.9.2015 and petitioner herein/husband's evidence was commenced. On 27.4.2016, RW.1 cross examined and Exs P.30 to P35 were marked. Thereafter the impugned CrI.M.P.No. 466 of 2016 was filed to recall PW 1 for

further cross-examination. The Court below rejected the said petition on the grounds that ample opportunity was given to the husband to cross examine the witness; that the present petition was filed after RW.1's cross examination is over and it was filed only to fill up the gaps in his evidence.

The learned Counsel for the petitioner/husband submits that recalling of PW 1 is necessary. He submits that the wife filed suit by paying Rs.2.00 lakhs court fee and on the other hand, she is claiming maintenance and therefore it is necessary to recall P.W.1 in order to elicit truth.

On the other hand, learned Counsel appearing for Respondents 2 to 4 seriously opposed the petition and contended that the present petition is filed only to drag on the proceedings. He too submitted that ample opportunity was given to the petitioner to cross examine the witness.

Having heard the learned Counsel on either side and considering the facts and circumstances of the case, this Court is of the opinion that interests of justice would be best served in directing the petitioner/husband to deposit necessary and requisite process fee for summoning P.W.1 and also an amount of Rs.5,000/- towards costs, to the credit of aforesaid DVC immediately and thereafter evidence of P.W.1 should be completed within two weeks thereafter. It is made clear that no further extension of time will be granted for the said purpose. After completion of evidence, P.W.1 is entitled to withdraw the

amount of Rs.5,000/- deposited by the petitioner/husband towards her expenses.

Subject to the above, the Criminal Petition is disposed of.

Miscellaneous petitions pending consideration if any in the Criminal Petition shall stand closed in consequence. No order as to costs.

JUSTICE M.S.K. JAISWAL

DATED 12TH AUGUST, 2016.
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