

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

**CRIMINAL PETITION No.7978 of 2016**

**ORDER:**

The criminal petition is filed against the order dated 22.04.2016 in CrI.M.P.No.1163/2016 in C.C.No.655/2015 on the file of the XIV Additional Judge-cum-XVIII Additional Chief Metropolitan Magistrate, 2<sup>nd</sup> Floor, Pioneer House, Erramanzil, Somajiguda, Hyderabad, by and under which, the petition filed under Section 311 Cr.P.C. to recall PW 1 to further cross-examine was dismissed.

Heard the learned counsel appearing for the petitioner.

The learned counsel appearing for the petitioner submits that as serious allegations are levelled against the petitioner/accused, if the prosecution witnesses are not cross examined, serious prejudice would be caused to the petitioner.

The allegations levelled against the petitioner are for the offence punishable under section 138 of Negotiable Instruments Act. The criminal jurisprudence requires sufficient opportunity to be afforded to the accused to put forth his defence and to cross examine the prosecution witnesses. The learned Court below dismissed the application filed by the petitioner/accused under Section 311 having found that there are no merits.

In view of the facts and circumstances of the case and in view of the nature of offence, I feel that the petitioner/accused be given opportunity to further cross examine PW 1, however, subject to following conditions;

- i) The petitioner/accused shall complete the cross examination of PW 1 on the same day when he is produced, without seeking any further adjournment;
- ii) The petitioner/accused shall pay costs of Rs.5,000/-

(Rupees five thousand only) to PW 1 on the date of his cross examination.

The Criminal Petition is accordingly disposed of.

Pending miscellaneous applications, if any, shall stand closed in consequence.

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**M.S.K.JAISWAL,J**

Date: 10.06.2016

Dsr