

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1688 OF 2009

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioners/A.1 and A.2 aggrieved by the order, dated 11.09.2009, in CrI.M.P.No.5223 of 2009 in C.C.No.686 of 2004 on the file of XI Additional Chief Metropolitan Magistrate, Secunderabad, whereunder and whereby, Miscellaneous Application filed under Section 311 Cr.P.C. seeking to summon respondent No.1 herein/complainant (LR) as a witness, was allowed on the ground that the original complainant is none other than husband of respondent No.1, who died on 08.03.2008.

2. Originally the husband of respondent No.1 herein filed a private complaint against the petitioners herein before XI Additional Chief Metropolitan Magistrate, Secunderabad, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and the same was numbered as C.C.No.686 of 2004.

3. Admittedly, the husband of respondent No.1, who is complainant, was already examined as P.W.1 and subsequently, he died on 08.03.2008. At the time when respondent No.1 filed the present miscellaneous petition to examine herself as a witness in order to adduce additional evidence, the case was posted to defence side evidence and the same was completed on 27.07.2009 and posted the matter to 31.07.2009 for arguments. The learned Magistrate, after considering the material on record, allowed the

petition on the ground that no prejudice will be caused to the petitioners, if the petition is allowed.

4. Learned counsel for the petitioners submits that since the entire evidence is completed and the case is posted for arguments, at that stage, the present petition is filed and hence, he prays to set aside the impugned order.

5. Considering the facts and circumstances of the case and as the case is posted for arguments, the Criminal Revision Case is allowed setting aside the order, dated 11.09.2009, in CrI.M.P.No.5223 of 2009 in C.C.No.686 of 2004 on the file of XI Additional Chief Metropolitan Magistrate, Secunderabad. The learned Magistrate is directed to complete the arguments and dispose of C.C.No.686 of 2004 within a period of three (03) months from the date of receipt of a copy of this order. It is made clear that respondent No.1 herein is not permitted to recall any witness and she has to argue the matter on the basis of evidence already adduced.

Miscellaneous petitions, if any, pending in this revision case shall stand closed.

JUSTICE RAJA ELANGO

08.09.2016
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Date: 08.09.2016

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