

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.4628 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. challenging the order dated 04-03-2016 in CrI.M.P.No.307 of 2016 in C.C.No.640 of 2013 passed by the I Special Magistrate, Hyderabad, whereby the petitioner/accused was given opportunity to adduce his evidence on payment of costs of Rs.4,000/- payable by 14-03-2016 to the respondent-complainant therein.

The facts leading to the present criminal petition are that the second respondent-complainant filed a private complaint under Section 138 of the Negotiable Instruments Act wherein the evidence of the complainant was closed and the examination of the petitioner-accused under Section 313 Cr.P.C. was also completed. When the petitioner-accused intends to adduce his defence evidence, he filed a petition under Section 315 Cr.P.C. and the same was allowed. Thereafter, the petitioner-accused filed his chief affidavit on 18-06-2016 and after filing of chief-affidavit, the petitioner-accused sought for several adjournments for marking some documents. Thereafter, when the chief affidavit of the petitioner-accused was closed by eschewing the same on the ground of the petitioner-accused being absent on 01-07-2015, the petitioner-accused filed CrI.M.P.No.1359 of 2015 under Section 311 Cr.P.C. seeking to reopen and recall his evidence for further evidence. The trial Court allowed the said application on payment of costs of Rs.3,000/- payable to Legal Services Authority within four days from the date of order i.e. on 16-07-2015. Challenging the said order, the petitioner-accused filed revision before the Metropolitan Sessions Judge, Hyderabad

in S.R.No.8536 of 2015. Subsequently, when the revision petitions were taken up for hearing the petitioner-accused was absent consequently the revision was returned as no submission was made. Thereafter, the petitioner-accused filed memo requesting to receive the original file of revision petition. Pursuant to the said memo, the respondent-complainant filed objections to the said memo, based on which, the said memo was numbered as CrI.M.P.No.307 of 2016. The learned Magistrate, after considering submissions of the petitioner-accused and the objections of the respondent-complainant, granted opportunity to the petitioner-accused to adduce his evidence on payment of costs of Rs.4,000/- payable by 14-03-2016 to the respondent-complainant. Aggrieved by the said order, the present criminal petition is filed.

Heard and perused the material available on record.

While strenuously arguing for some time about correctness of the order under challenge, the learned counsel for the petitioner-accused submitted that instead of challenging the order under challenge, he is ready to pay costs as imposed in the present order, if the same is reduced to a reasonable sum.

Having regard to the facts and circumstances of the case and in view of the submissions made by the learned counsel for the petitioner-accused, without expressing any opinion on the correctness of the order under challenge, the petitioner-accused is directed to pay the costs as imposed at Rs.2,000/- by the respondent-complainant on or before 30-04-2016 and on payment of such costs by the petitioner-accused, the trial Court is directed to proceed with the case and dispose of the same as expeditiously

as possible in accordance with law.

With the above observation, this criminal petition is disposed of. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

RAJA ELANGO, J

Date: 04-04-2016

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