

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CrI.P.No.6725 of 2016

ORDER

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The present criminal petition under Section 482 Cr.P.C., is filed seeking to quash the order dated 04.04.2016 passed in CrI.M.P.No.954 of 2016 in C.C.No.530 of 2015 on the file of XIV Additional Judge-cum-XVIII Additional Chief Metropolitan Magistrate, Erramanzil, Somajiguda, Hyderabad.

2. Heard and perused the material on record.

3. The petitioner/accused is involved in C.C.No.530 of 2015 on the file of XIV Additional Judge-cum-XVIII Additional Chief Metropolitan Magistrate, Erramanzil, Somajiguda, Hyderabad, registered for the offence punishable under Section 138 of Negotiable Instruments Act, 1881. In the said case, trial was commenced and the matter was posted for cross-examination of P.W.1 on 15.03.2016, on which date, the petitioner's counsel was absent, as such, the trial Court recorded his cross-examination as 'nil'. Hence, the petitioner filed the impugned application seeking to permit his counsel to cross-examine P.W.1. By the order impugned, the trial Court dismissed the said application. Challenging the same, the present criminal petition is filed.

4. In the order impugned, the trial Court observed that on 15.03.2016, even though NBW was recalled, the petitioner was not ready for cross-examination of P.W.1 and that though the reason mentioned by the learned counsel for the petitioner in the impugned application that he was

ill-health on that day, no proof was submitted before the Court. Therefore, this Court is of the view that the trial Court has rightly dismissed the said application. However, in view of the nature of offence and in order to give an opportunity to the petitioner/accused to cross-examine P.W.1, the Criminal Petition is disposed of with the following direction;

The petitioner/accused is directed to file an application afresh seeking to recall the evidence of P.W.1 on or before 15.06.2016, and on filing such an application, the trial Court shall permit the petitioner to cross-examine P.W.1 by fixing a date for appearance of P.W.1, on which date, the petitioner shall pay a sum of Rs.5,000/- to P.W.1 towards costs, failing which, the trial Court is at liberty to proceed in accordance with law.

Miscellaneous Petitions, if any, pending in this petition shall stand closed.

JUSTICE RAJA ELANGO

28th April, 2016

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