

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1308 of 2016

ORDER:

Assailing the order dated 21.04.2016 passed in CrI.P.M.P.No.2905 of 2016 in C.C.No.169 of 2014 on the file of Judicial Magistrate of First Class, Eluru, West Godavari District, wherein an application filed under Section 311 of Cr.P.C. to re-open the matter for filing the chief affidavit of PW2 Yerra Hemantha Kumar was allowed, the present revision is filed.

2. The facts in issue are as under:

The petitioner is an accused in C.C.No.169 of 2014. A private complaint came to be filed by the respondent herein against the petitioner for an offence punishable under Section 138 of Negotiable Instruments Act. The respondent herein authorized one Guttikonda Satyanarayana Chowdary to depose on his behalf. The chief affidavit of the said Guttikonda Satyanarayana Chowdary was treated as evidence in chief. Subsequently, PW1 i.e., Guttikonda Satyanarayana Chowdary was cross examined on 17.03.2016. After completing the evidence of the complainant represented by GPA holder and when the case was posted for arguments, the complainant wants himself to be examined as PW2. After considering the

rival arguments, the trial Court allowed the said petition. Challenging the same, the present revision is filed.

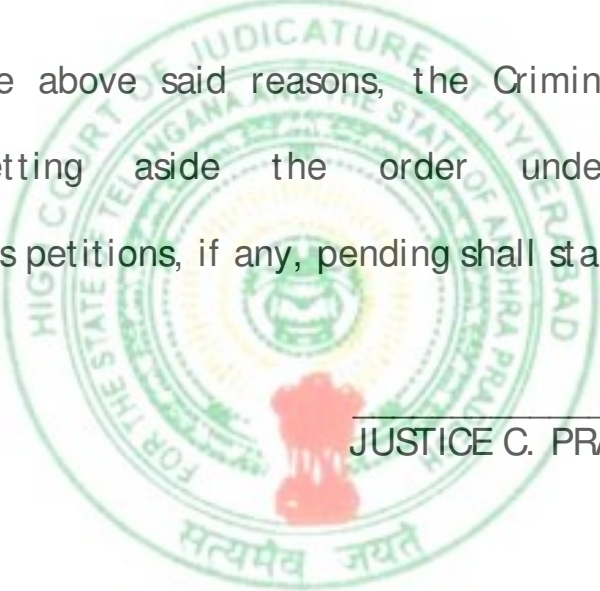
3. Heard learned counsel for the petitioner and learned counsel for the first respondent.

4. The learned counsel for the petitioner mainly submits that the present application is being filed only with a view to fill up the lacunae in evidence of GPA holder. The same is opposed by the learned counsel for the first respondent contending that no prejudice will be caused, if the evidence of the complainant is brought on record.

5. It is to be noted that GPA Holder deposed before the Court representing complainant and the cross examination was done by the counsel for the accused wherein several suggestions were put to the GPA holder, who was representing the complainant. It is now urged that due to over sight, the evidence of complainant was not brought on record and as such his evidence is very much essential to decide the case on hand. It is to be noted that no reasons are mentioned in the petition filed as to why the complainant could not get himself examined instead of GPA holder. Even otherwise, no reasons are given as to how and why the said evidence is essential at this stage. Definitely, it appears to be a case where complainant wants to fill up the laches or the lacunae left out by his GPA holder, who deposed on his behalf. It is no doubt

true that the object of the trial is to find out the truth or falsity of the issue, but at the same time, it is to be noted that filling up lacunae by allowing examination of witnesses, when the case is posted for arguments cannot be allowed. It is to be noted that evidence as sought for cannot be allowed to be adduced since the same would definitely cause great prejudice to the accused as he has already put forward his version of case by cross examining the person who was representing the complainant.

6. For the above said reasons, the Criminal Revision is allowed setting aside the order under challenge. Miscellaneous petitions, if any, pending shall stand closed.



JUSTICE C. PRAVEEN KUMAR

20.09.2016
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