

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

CRIMINAL PETITION No.1188 of 2016

ORDER:

The criminal petition is filed against the order dated 04.01.2016 in CrI.M.P.No.1852 of 2015 in C.C.No.194 of 2014 on the file of the Special Mobile Magistrate of First Class (Mobile Court), Anantapuram, by and under which, the petition filed under Section 311 Cr.P.C. to recall PW 1 for further cross-examination was dismissed.

Heard learned counsel appearing for the petitioner/accused.

The learned counsel appearing for the petitioner/accused submits that PW 1 is to be cross examined further to elicit about his income capacity.

The allegations levelled against the petitioner are for the offence punishable under section 138 of the Negotiable Instruments Act. The criminal jurisprudence requires sufficient opportunity to be afforded to the parties to put forth their defence. The learned Court below dismissed the application filed by the petitioner under Section 311 Cr.P.C. having found that PW.1 already cross examined on the aspect of source of income.

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 cross-examine PW 1, subject to following conditions;

- i) The petitioner/accused shall produce and cross-examine PW 1 and complete the same on the day fixed by the Court below without seeking any further adjournment;
- ii) The petitioner/accused shall pay costs of Rs.2,000/- (Rupees two thousand only) to the 2nd respondent/complainant;

The Criminal Petition is accordingly disposed of.

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

M.S.K.JAISWAL,J

Date: 22.06.2016
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