

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

CRIMINAL PETITION No.12404 of 2016

ORDER:

This Criminal Petition is filed by the petitioner, under Section 482 of Cr.P.C., seeking to quash the order, dated 13-06-2015 passed by the XII Addl. Chief Metropolitan Magistrate, Hyderabad in CrI.M.P.No.4781 of 2015 in C.C.No.95 of 2010.

Heard and perused the material on record.

CrI.M.P.No.4781 of 2015 was filed by the petitioner/accused under Sections 311 and 91 Cr.P.C. to recall PW6 for the purpose of further cross-examination on the ground that after conclusion of the evidence of PW6 the prosecution got marked Exs.P38 to P44 though the Investigating Officer – PW11, due to which there is a need for further cross-examination of PW6. The said petition was dismissed by the learned Magistrate.

It is not in dispute that the PW6 who has already been examined on 17-07-2013 in chief and cross was the Chartered Accountant of petitioner/accused. Subsequently, on 21-01-2014 the prosecution examined PW-11 – Investigating Officer and got marked Exs.P38 to P44 through him, which are certified copies of returns, balance sheet and income tax returns of accused for the years 2000 to 2008.

Learned counsel for the petitioner submits that the trial Court erroneously dismissed the petition, which is contrary to law and facts of the case. Learned counsel also submits that PW6 is the Chartered Accountant of the accused and he is responsible for

preparation of income tax returns of petitioner/accused which have been filed and marked through the Investigating Officer – PW11 subsequent to the examination of PW6. He further submits that having marked Exs.P38 to P44 through the Investigating Officer after PW6 was examined the rejection of the request to recall PW6 violates principles of natural justice.

In view of the above, the Criminal Petition is allowed setting aside the impugned order, dated 13-06-2015 passed by the XII Addl. Chief Metropolitan Magistrate, Hyderabad in CrI.M.P.No.4781 of 2015 in C.C.No.95 of 2010 and the petitioner is directed to pay process for issuance of summons to PW6 and as and when PW6 is present without seeking further adjournment his evidence should be completed. It is made clear that the entire process should be completed within a period of one month from the date of receipt of a copy of this order. Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K. JAISWAL, J

August 27, 2016
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THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

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August 27, 2016

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