

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION Nos.2562, 2565, 2572, 2573 & 2576 of 2017

COMMON ORDER:

Since common point is involved in all these petitions, to answer the same, they are taken up together for common disposal.

2. The petitioner in each of these cases, aggrieved over the orders dated 20.10.2016 in CrI.M.P.Nos.106 and 107 of 2016 in C.C.No.624 of 2013, CrI.M.P.No.88 of 2016 in C.C.No.622 of 2013, CrI.M.P.Nos.93 and 92 of 2016 in C.C.No.620 of 2013, CrI.M.P.No.90 of 2016 in C.C.No.621 of 2013 and CrI.M.P.No.91 of 2016 in C.C.No.621 of 2013 on the file of the IX Special Magistrate, Somajiguda, Hyderabad, preferred the aforesaid criminal petitions under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') requesting to set aside the orders and afford him a chance to cross-examine PW.1 further.

3. By the aforesaid separate orders, the learned IX Special Metropolitan Magistrate, Hyderabad, has refused to accede to the request and dismissed the petitions.

4. Heard Sri G. Rama Chander Rao, learned counsel for the petitioner in all these matters.

5. The main submission of the learned counsel for the petitioner is that the account sheet maintained by the *de facto* complainant in relation to the business transactions between the *de facto* complainant

and the petitioner, require to be put to PW.1 in his cross-examination on certain aspects as the same could not be confronted earlier, when there was another advocate on record representing the petitioner. But, he fairly submits that the examination of the petitioner under Section 313 of the Code was already over and the matters are coming up for leading the evidence by the petitioner/accused. Therefore, his submission is that the learned Magistrate ought not to have dismissed the petitions.

6. The point that arises for consideration is whether such a request, at the stage when the calendar cases have come up for leading defence can be acceded to.

7. The question of inadvertence is not a ground to recall a witness, who was already examined. Even the change of the advocate on record is also not a ground to recall PW.1 as the said aspect is well settled by the Hon'ble Supreme Court in **State of Haryana v. Ram Mehar and others**¹. The learned counsel is unable to point out the patent defect or illegality that crept into the orders under challenge. Therefore, the request made herein cannot be acceded to, as no perversity can be viewed. Further, the petitioner is not prevented from exhibiting the account sheets, if available with him, and substantiate his defence, in case the account sheets are really relevant for adjudication of the controversy between the parties.

8. Accordingly, all these criminal petitions are dismissed.

9. Miscellaneous Petitions pending, if any, shall stand closed in all these criminal petitions.

A. SHANKAR NARAYANA, J

12th April 2017

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¹ 2016 (8) SCC 762