

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA
CRIMINAL PETITION No.2694 OF 2017

ORDER:

Aggrieved over the order dated 15.02.2017, in Criminal M.P. No.195 f 2017 in C.C. No.77 of 2014 passed by the learned III Special Magistrate, Hyderabad, whereby and whereunder, a request under Section 311 of the Code of Criminal Procedure, 1973 (for short 'Code'), to appoint an Advocate Commissioner to record the evidence of one Mr. Jogaiah, Assistant Commissioner of Police, Central Crime Station, Hyderabad, was rejected by dismissing the application; to set aside it, the present Criminal Petition is filed under Section 482 of Code requesting to exercise the extraordinary power.

2. Heard Sri N. Chandra Sekhar Reddy, learned counsel for the petitioner - accused, and perused the material on record.

3. It is felt that there is no need to issue notice to respondent No.1 - complainant, in view of the fact that there is no patent illegality in the order passed by the learned Magistrate which is under challenge herein. The learned Magistrate has assigned cogent reasons in rejecting the request observing that invariable ingredients, required to exercise the power under Section 284 of the Code, were not satisfied by the petitioner. Even looking at the fact-situation occurring in the instant case, when summons were served on the witness proposed to be examined on behalf of the petitioner, he has not turned up or obeyed the orders of the Court.

4. It will be open to the petitioner - accused to make a request for issue of bailable warrant keeping in view that the proposed witness is an Assistant Commissioner of Police. It appears that such a request was not made and on the other hand came up with the application making a request under Section 311 of the Code for appointment of Advocate Commissioner to record the evidence of the proposed witness. There is no merit in the present petition.

5. Therefore, the Criminal Petition is dismissed, at the admission stage itself.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition stand closed.

April 3, 2017.
PV

A. SHANKAR NARAYANA, J

