

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.3604 of 2017

ORDER:

Heard the learned counsel for the petitioner/accused of C.C.No.227 of 2016 pending on the file of the 1st Special Class Magistrate, Hyderabad which is outcome of the private complaint of the 1st respondent herein for the offence u/sec.138 of the Negotiable Instruments Act. The petitioner filed this quash petition, impugning the order dt. 17.04.2017 in CrI.M.P.No.625 of 2017 which petition is filed u/sec.311CrPC to receive the returned unserved registered cover and the same is received and marked subject to objection by the lower Court. It is the main contention of the petitioner/accused that the learned Magistrate allowed the petition by order impugned herein even with filing any application for recall of the P.W.1 for the purpose of marking of document to be received.

Needless to say from reading of Section 311 CrPC, which runs into two parts. The second part mandates the Court where it appears to it to be necessary for just decision of the case. Once such is the case there is power of the Court to recall any witness suo-moto u/sec.165 of the Indian Evidence Act, without even application. Hence, there is nothing to interfere with the order of the learned Magistrate, that too when the P.W.1 was already recalled and the document was exhibited.

Having regard to the above and in the result, the Criminal Petition is closed as no more orders are necessary to be passed. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 25.10.2017

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