

THE HON' BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.6202 OF 2017

ORDER:

Heard learned counsel for the petitioners and the learned Public Prosecutor, and perused the record.

2. This criminal petition is filed to set aside the order in CrI.R.P. No.84 of 2016 on the file of I-Additional Metropolitan Sessions Judge, Visakhapatnam against CrI.M.P. No.2320 of 2016 in CC No.3 of 2011 on the file of Special Magistrate-I, Visakhapatnam, and to quash the same against the petitioners.

3. Learned counsel for the petitioners would submit that the application filed before the trial Court to recall PW-1 was dismissed.

4. The petitioner intends to further cross-examine PW.1 with regard to the issue of Ex.P-4 - Return Memo issued by the bank. Admittedly, PW.1 is the complainant in the trial Court. He is not the author of Ex.P-4. There is record to show that PW.1 was cross-examined at length on 16.07.2013 and the application to recall PW.1 was filed in the year 2016 and it was dismissed vide orders in CrI.M.P.No.2320 of 2016 passed on 15.11.2016 and this petition to set aside the impugned order is filed before this Court on 20.07.2017. It appears that the petitioner has not been pursuing the remedy diligently. He is protecting the proceedings in the trial Court. As seen from the material placed on record, there are no mitigating circumstances to allow the application. The petition is lacking merits. There is no other justifiable reason to allow the application to setting aside the impugned order and permitting the petitioner to recall PW.1.

5. Under these circumstances, the Criminal Petition is dismissed.

Miscellaneous petitions, pending if any, shall stand dismissed.

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Dr. SHAMEEM AKTHER, J

July 27, 2017

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