

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.2787 of 2017

ORDER:

The present petition is filed requesting to exercise power under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code'), to quash the order, dated 15.02.2017, in CrI.M.P.No.38 of 2017 in C.C.No.279 of 2015 on the file of the XII Special Magistrate, Hyderabad, whereby and whereunder, the application under Section 311 of the Code filed by the petitioner/accused to recall P.W.1 for the purpose of further cross-examination with regard to Exs.P1 to P4 invoices, was dismissed.

Heard Sri B.Ushi Reddy, learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Telangana.

Since it is felt that no process need be ordered on the 2nd respondent/complainant, the present petition is taken up for disposal at the stage of admission itself.

The opinion expressed by the learned Magistrate in dismissing the application under Section 311 of the Code is that the case has reached the final arguments stage and P.W.1 was already cross-examined by the petitioner's counsel and once the defence evidence was also closed, no opportunity can be given. Learned Magistrate places reliance in **State (NCT of Delhi) v. Shivkumar Yadav and another¹**. Law is now well settled that inadvertence is not a ground to recall a witness where

¹ (2013) 2 SCC 402

defence is entered upon by the opposite party, including the change in Advocate has no ground to grant the relief sought for. There is no merit in the present petition. No patent illegality has crept into in passing the impugned order.

Hence, the Criminal Petition is dismissed at the stage of admission itself.

Miscellaneous applications, if any, pending in the present petition stand closed.

06.04.2017
v v

JUSTICE A.SHANKAR NARAYANA

