

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.694 of 2017

ORDER :

The present petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.') questioning the order passed in CrI.M.P.No.3584 of 2016 in C.C.No.1479 of 2003 dated 05.01.2017, passed by the III-Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, whereby and whereunder the request to summon the plaintiff in O.S.No.72 of 2005 on the file of the XI-Additional Chief Judge, City Civil Court, Hyderabad, for the purpose of cross-examination of PW.1 was rejected.

2. Sri R.Rama Brahmma, learned counsel for the petitioner/A.2, would represent that the factual allegations shown in the plaintiff are almost identical and in that direction, the petitioner made an attempt to obtain certified copy by filing copy application on 12.04.2016, but he was not provided the same, therefore, it necessitated to summon the plaintiff from original case bundle and the Court below has not properly appreciated the said circumstance.

3. Learned Additional Public Prosecutor would resist the request contending that there is no need to summon the plaintiff and it is intended to drag on the proceedings. He further submits that PW.1's chief-examination was completed in the month of December, 2016 and since then the petitioner is postponing the cross-examination of PW.1.

4. Perused the order. The learned III-Additional Chief Metropolitan Magistrate, Hyderabad, has assigned reason in rejecting the request that the original plaint cannot be summoned and certified copy thereof would suffice for the present purpose and therefore, he felt there was no merit and hence dismissed the petition.

5. The said finding tendered by the learned III-Additional Chief Metropolitan Magistrate, Hyderabad, cannot be faulted. Even according to the learned counsel for the petitioner, in the year 2011 itself, O.S.No.72 of 2005 was disposed of. But, the petitioner made application for certified copy of the plaint on 12.04.2016. The proceedings in the calendar case relates to the year 2007 and there is no end to the litigation if things are allowed to go on in this manner. When the certified copy of the plaint is suffice for the purpose of cross-examining PW.1, attempt ought to have been made by the petitioner in the very beginning, but not at the stage when cross-examination was required to be done that too three months after PW.1's chief-examination was over. There is no merit in the present petition.

6. Accordingly, the criminal petition is dismissed.

7. Miscellaneous petitions pending, if any, shall stand dismissed.

A. SHANKAR NARAYANA, J

31st January 2017.

mar