

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.5973 of 2017

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the orders dated 05.06.2017 in CrI.M.P.No.352 of 2017 in C.C.No.116 of 2016 (Old C.C.No.2100 of 2016) on the file of the Court of the XV Special Magistrate, Hyderabad.

2. The learned counsel for the petitioner strenuously submitted that the trial Court allowed the petition filed by the first respondent without following the procedure as contemplated in Criminal Procedure Code. He further submitted that if the order passed by the trial court is allowed to stand, certainly it would amount to abuse of process of law.

3. A perusal of the record reveals that the first respondent/accused is facing trial in C.C.No.116 of 2016 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. After completion of the complainant's side evidence, the first respondent filed CrI.M.P.No.352 of 2017 in C.C.No.116 of 2016 with a prayer to issue summons to the proposed witnesses. After affording a reasonable opportunity to both parties, the trial Court allowed the petition issuing summons to the witnesses. It is needless to say that an accused is entitled to adduce evidence in order to demolish the stand taken by the complainant as well as to substantiate the stand taken by him. The complainant marked several documents. The first respondent filed the present petition seeking permission of the Court to issue summons to the proposed witnesses in order to substantiate the stand taken by her. It is

needless to say that the Court has to give a fair and reasonable opportunity to the accused person. Nowhere it is mentioned in the counter of the petitioner that the proposed witnesses are no way concerned with the *lis* involved in the case.

4. It is the contention of the petitioner that the proposed witnesses have nothing to do with the *lis* involved in the case. This is not the stage to decide the relevancy and other aspects. At this stage, the Court has to consider whether allowing of such petition would cause any prejudice to the rights of the complainant or not. Even if the petition is allowed, the same would not cause any prejudice to the petitioner. On the other hand, if the petition is dismissed, it may not be possible for the first respondent to put forth her legitimate defence. The trial Court has assigned reasons much less cogent and valid reasons while allowing the petition. I am fully agreeing with the findings recorded by the trial Court.

5. Having regard to the facts and circumstances of the case, there are no grounds much less valid grounds to interfere with the well considered order of the trial Court while exercising the jurisdiction under Section 482 of Cr.P.C.

6. Accordingly, the Criminal Petition is dismissed. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 21.07.2017
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