

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRL R.C. NO.1125 OF 2017

ORDER:

This criminal revision case is filed under Sections 397 and 401 of Cr.P.C. challenging the order, dt.01.04.2017 in CrI.M.P.No.109 of 2017 in CrI.A.No.139 of 2014 passed by the Principal Sessions Judge, Kadapa dismissing the application filed under Section 391 Cr.P.C. to receive two documents i.e. reply legal notice and the letter addressed to Vijaya Bank, Kadapa to stop payment of the amount covered by the cheque and in turn, the Manager affixed his seal on the requisition.

2. It is the case of the petitioner before the trial Court that the legal notice allegedly issued by the petitioner was put to the witness PW-1 during his cross examination, but did not mark the same. Similarly, the letter dt.26.12.2012 addressed to the Bank Manager to stop payment was available with him, but they were not filed before pronouncing the judgment. No reason was assigned in the entire petition for failure to file those two documents and mark them as exhibits, except raising such contention that reply notice was confronted but did not mark the same. Now it is contended that those two documents are necessary and requested the Court to receive and mark them as additional evidence.

3. Section 391 Cr.P.C. deals with power of appellate Court and if the Court thinks additional evidence to be necessary, shall record its reasons and may either take such evidence itself, or direct it to be taken by a Magistrate, or when the Appellate Court is a High Court, by a Court of Session or a Magistrate.

4. Therefore, for receiving additional evidence, the appellate court has to satisfy itself that additional evidence is necessary. But, the appellate Court did not receive the additional evidence as it is not necessary. In fact, the petitioner himself did not disclose while admitting that the reply notice was confronted to the witness, but conveniently did not mark the same though PW-1 denied receipt of notice. At the same time, the letter addressed to the Bank Manager to stop payment was readily available with the petitioner not even confronted to any of the witness and did not file those documents in the examination under Section 313 Cr.P.C. by the trial Court, when the petitioner exhibited the negligence and callousness in prosecuting the proceedings and no reason was mentioned for his failure to file the documents. Therefore, the order passed by the trial Court is in accordance with law and does not call for any interference by this Court by exercising powers under Section 397 and 401 Cr.P.C. as I find no manifest perversity or apparent error in the order passed by the appellate Court to exercise power under Sections 397 and 410 Cr.P.C. which is exceptional circumstance. Therefore, I find no ground to interfere with the finding recorded by the trial Court and the revision is devoid of merits.

5. In the result, the criminal revision case is dismissed .

Miscellaneous petitions, if any, pending in this case shall stand closed.

M.SATYANARAYANA MURTHY, J

DATE: 08-08-2017
ccm

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