

SMT JUSTICE T. RAJANI

CRIMINAL PETITION No.4351 of 2011

ORDER:

This petition is filed seeking for quashing of the order, dated 28.04.2011 passed by the Chief Metropolitan Magistrate, Hyderabad, in CrI.M.P.No.1139 of 2011 in C.C.No.128 of 2005.

2. Heard the counsel for the petitioner and the Public Prosecutor appearing for the 2nd respondent. The counsel for the 1st respondent did not appear in spite of notice.

3. The counsel for the petitioner submits that the petition in which the impugned order is passed is filed under Section 311 Cr.P.C. seeking for examining LW2-V.Ramesh Reddy as a witness on his behalf. The background facts are that the case was being adjourned from time to time till 21.03.2011, which, according to the petitioner's counsel, is due to the disturbed political scenario in the city with regard to the bifurcation issue and on 21.03.2011, the case was passed over on the request of the complainant and at 01:00 PM, the complainant did not turn up; the evidence of the petitioner was closed and the matter was posted for examination under Section 313 Cr.P.C. The Court below, observing that the petitioner has been absent on all the earlier adjournments, declined to allow the petition.

4. It is a case filed for the offence under Section 500 IPC. Unless there is supporting evidence for the facts constituting

defamation, it would be difficult for the complainant to prove the alleged offence. Hence, the opportunity, sought for by the petitioner, cannot be declined and the same would not cause prejudice to the complainant. Hence, the impugned order is set aside. However, the petitioner shall be present before the court below on the date specified by the court below after the record reaches the court and he shall co-operate with the Court by examining the proposed witness i.e., LW2-V.Ramesh Reddy on the given dates without any fail. If there is any default on the part of the petitioner, the impugned order shall stand confirmed.

With the above observations, the Criminal Petition is allowed and the order, dated 28.04.2011, passed in CrI.M.P.No.1139 of 2001 in C.C.No.128 of 2005 is set aside. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

November 8, 2017
LMV

T. RAJANI, J