

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.12810 OF 2011

ORDER:

The present Criminal Petition under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Code') is filed by the petitioners - complainant seeking to quash the order, 19.01.2011, in CrI.M.P. No.4074 of 2010 in C.C. No.288 of 2010, passed by the learned VII Additional Judicial Magistrate of First Class, Warangal, and also the order dated 14.11.2011, passed in CrI.R.P. No.13 of 2011, by the learned Principal Sessions Judge, Warangal.

2. In CrI.M.P. No.4074 of 2010 in C.C. No.288 of 2010 filed by respondent No.1 herein under Section 91 of the Code to order the petitioner - complainant to furnish the particulars of statement of account for the year 2005 belonging to the brother-in-law of the petitioner herein, the learned Magistrate, observing that the petitioner - complainant, in his cross-examination, stated that the amount was brought from the account of his brother-in-law in the year 2005 and that he produced the statement of account but did not produce the same, allowed the petition, by order, dated 19.01.2011.

3. Aggrieved by the said order, the petitioner - complainant preferred the Criminal Revision Petition No.13 of 2011 before the learned Principal Sessions Judge, Warangal, but the learned Sessions Judge, dismissed the same on the ground that the revision is not maintainable against an order under Section 91. Challenging the said

order, the present criminal petition is filed by the petitioner - complainant.

4. The learned counsel for the petitioner, now, submits that the petitioner does not know the particulars of account of his brother-in-law and that his brother-in-law is not furnishing his details of account to him. The petitioner cannot be directed to perform an impossible task when he pleads that he does not have the account details and that his brother-in-law is not giving the details, he cannot be expected to comply with the order. In those circumstances, it is for respondent No.1 - accused to summon the brother-in-law of the petitioner - complainant.

5. In view of the above, the order, dated 19.01.2011, passed by the learned Magistrate in CrI.M.P. No.4074 of 2010 in C.C. No.288 of 2010 is set aside, and the petitioner - complainant herein is directed to furnish the address of his brother-in-law to the Court, so that, the accused would have an opportunity to summon the brother-in-law of petitioner - complainant. On the petitioner - complainant's failing to furnish such address, the learned Magistrate, however, can draw adverse inference, subject to the appreciation of any explanation coming forth from the petitioners.

6. With the above direction, the present Criminal Petition is disposed of.

Consequently, Miscellaneous Petitions, if any, pending in the present Criminal Petition stand closed.

SMT. T. RAJANI, J

November 14, 2018

Mgr

