

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.285 of 2018

ORDER:

Heard learned counsel for petitioner and this Court is of the considered view that this Crl.R.C. can be disposed of at the admission stage in view of facts involved in this case.

2) This Criminal Revision Case is preferred by the petitioner/complainant aggrieved by the order dated 29.12.2017 in Crl.M.P.No.3178 of 2017 in C.C.No.499 of 2015 passed by XIV Special Magistrate, Erramanzil whereunder the learned Magistrate allowed the petition filed by the respondent/accused to summon Tahsildar and to produce certain documents and to give evidence.

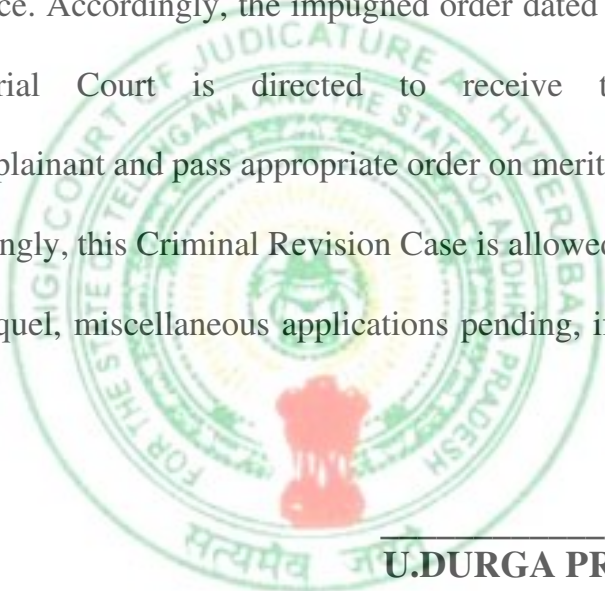
3) The grievance of the petitioner as ventilated by the learned counsel for petitioner is that though notice in the petition was given to him, he was not permitted to file counter by the trial Court on the ground that the respondent/accused have every right to summon his witness as it is well within law and so there was no need to give permission to the petitioner to file counter. Learned counsel would submit that though it is the right of a party to adduce his evidence, however, a party has no right to produce irrelevant evidence. In the instant case, learned counsel would submit, summoning of the Tahsildar and production of records is absolutely unwarranted and not relevant which he can show if an opportunity to file counter is given to him. Denying the right to file counter, he lost valuable opportunity.

This Court finds force in the aforesaid submission.

4) It is true that a party has right to adduce evidence either oral or documentary of his choice. However, it should be subject to law of relevancy and admissibility and opposite party has every right to place before the Court about the irrelevancy nature of the evidence sought to adduce. In my view, trial Court ought to have given an opportunity to the petitioner/complainant to submit about the irrelevancy of the evidence proposed to be adduced by the respondent/accused, in this case which, this Court is informed, a case under Section 138 of Negotiable Instruments Act. Therefore, denial of opportunity to file counter, is held, denial of principles of natural justice. Accordingly, the impugned order dated 29.12.2017 is set aside and trial Court is directed to receive the counter of petitioner/complainant and pass appropriate order on merits.

5) Accordingly, this Criminal Revision Case is allowed.

As a sequel, miscellaneous applications pending, if any, shall stand closed.



U.DURGA PRASAD RAO, J

Date: 08.02.2018

Note: Issue CC by tomorrow.

(b/o)
Murthy