

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

Criminal Petition No.2171 of 2018

ORDER :

The petitioner is the accused in C.C.No.480 of 2015 on the file of the learned VI Special Magistrate, Hyderabad at Erramanjil for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act'), which is outcome of the complaint of respondent No.2 taken cognizance.

2. It is during trial the prosecution witness PW1 examined and DW1 also examined and arguments of the complainant heard and when it was coming for arguments of the accused, he filed a petition on 11.12.2017 in CrI.M.P.No.2560 of 2017 in seeking to recall PW1. The averments in said petition are that due to the non-availability of information from the accused, counsel for the accused could not put some crucial and important questions to PW1 in respect of cheque and subsequent events in the cross-examination of PW1, which are relevant and important, and if not permitted, the very purpose of contesting the case will be defeated; thereby, to permit. He did not even submit in a sealed cover as to what are the questions that are to be put. He adduced his defence evidence. DW1 it is the accused came to the witness box and even at that time he did not file any application for recall of PW1 and thereby, the very averment that due to the non-availability of information some questions not asked and it is now as if available in the accused arguments after the arguments of the

complainant cannot be counted for the case not coming under Part II of Section 311 Cr.P.C. of necessary for just decision nor any case made out under Part I Section 311 Cr.P.C. with any cogent reasons. Therefore, there is nothing to interfere with the dismissal order of the lower Court.

3. Accordingly, this Criminal Petition is dismissed. Miscellaneous petitions pending, if any, shall stand closed.

31.10.2018
MVA



Dr. B. SIVA SANKARA RAO, J