

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.15091 of 2013

ORDER:

In this petition filed under Section 482 Cr.P.C., the petitioners/accused seek to quash the order dated 15.04.2013 in CrI.M.P.No.673 of 2013 in C.C.No.549 of 2012 passed by the learned VIII Special Magistrate, Hyderabad, dismissing the petition filed by the petitioners/accused under Section 311 Cr.P.C for recall of PW.1 for further cross-examination.

2) Heard Sri N.Naveen Kumar, learned counsel for petitioners and Sri T.Jayant Jaisooraya, learned counsel for 2nd respondent/complainant.

3) The impugned order would show that the respondent/complainant reported no objection for allowing the petition. However, the Trial Court dismissed the petition on the observations that the matter was coming up for defence evidence and posted to 24.01.2013 and after that date, the matter underwent several adjournments and finally when the matter was posted to 04.03.2013, at that stage the petitioners/accused came up with CrI.M.P.No.672/2013 seeking to reopen the case and filed another application CrI.M.P.No.673/2013 to recall PW.1 for further cross-examination on the submission that some material questions were not put to the PW.1 during previous cross-examination. The Trial Court observed that the

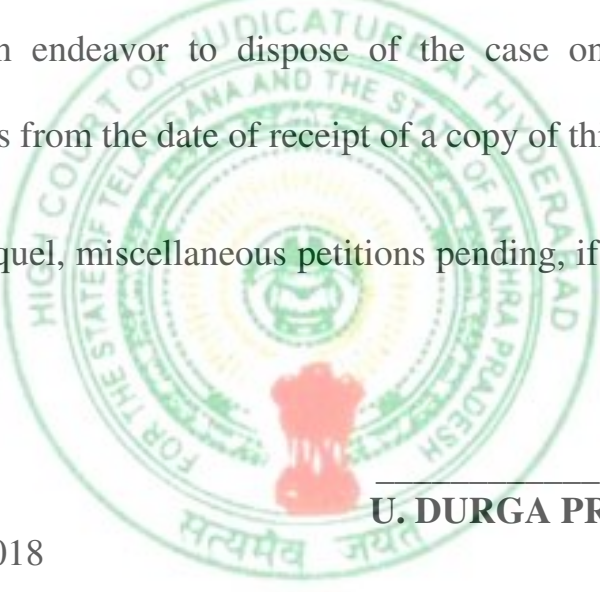
petition was vague and a belated one and therefore, it does not merit consideration.

4) The submission of learned counsel for petitioners is that during the earlier cross-examination some questions relating to material aspects could not be put to PW.1 by oversight. The material aspects were to the effect that earlier the cheque was bounced back but the complainant did not file complaint and according to him, he re-presented the cheque and after it was bounced back, he filed the instant criminal case and therefore, he has to be cross-examined on that aspect. Similarly the answers have to be elicited from PW.1 as to the particulars of the Board meetings and Directors of the company during the relevant period of issuance of cheque. There are some more important questions to be put to PW.1. Unless permission is accorded, the defence of accused will be jeopardized. He thus prayed to allow the petition and set aside the impugned order.

5) As already stated supra, the respondent/complainant did not object for allowing the recall application. However, the Trial Court dismissed the petition mainly on the ground that the petition was vague and the particulars of the material aspects on which questions are proposed to be put to PW.1 are not mentioned. Now the petitioners/accused submitted the important material aspects on which they propose to further cross-examine the witness. In the considered view of this Court, the petition can be allowed subject ofcourse, on payment of costs.

6) In the result, in the interest of justice, this Criminal Petition is allowed and the impugned order in CrI.M.P.No.673/2013 in C.C.No.549/2012 passed by the learned VIII Special Magistrate, Hyderabad is set aside, on petitioners/accused paying costs of Rs.2,000/-(Rupees two thousand only) to the 2nd respondent/complainant on or before **06.08.2018**. The Trial Court shall fix a date and recall PW.1 for further cross-examination and the petitioners/accused shall complete the further cross-examination on the same day. In view of the fact that C.C is of the year 2014, the Trial Court shall make an endeavor to dispose of the case on merits within four(4) months from the date of receipt of a copy of this order.

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



U. DURGA PRASAD RAO, J

Date: 30.07.2018

Note: Issue C.C by tomorrow.

(b/o)

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