

HONOURABLE SRI JUSTICE P. KESHA VA RAO

CRIMINAL REVISION CASE No. 1178 of 2018

ORDER:

Heard the learned counsel for the petitioners as well as the second respondent.

The present criminal revision case is filed questioning the orders passed in CrI.M.P.No.31 of 2018 dated 30.01.2018 in C.C.No. 250 of 2017 on the file of the Court of the IX Special Magistrate, Erramanzil, Hyderabad, allowing the petition filed under Section 311 Cr.P.C. to receive the documents on behalf of the second respondent.

The brief facts of the case are that the second respondent filed a complaint vide C.C.No.250 of 2017 against the petitioners herein for the offence under Section 138 of Negotiable Instruments Act on the file of the Court of the IX Special Magistrate, Erramanzil, Hyderabad. In the said calendar case, the evidence of the complainant is completed. Section 313 Cr.P.C. examination is also over. At that stage, the second respondent/complainant filed a petition in CrI.M.P.Nos.30 of 2018 and 31 of 2018 for the purpose of reopening the case for further evidence and also to receive the documents on his behalf. The Court below, after appreciating the matter at length, by orders dated 30.01.2018, was pleased to allow the said applications. Aggrieved by the said orders, the present criminal revision case is filed against the orders passed in CrI.M.P.No.31 of 2018 insofar as it pertains to receipt of documents on behalf of the second respondent herein.

Learned counsel appearing for the petitioner would submit that the petition has been filed by the second respondent to fill up the lacunae and get over the payment of entire sale consideration. Such application cannot be maintained to erase the benefits that are accrued on to the petitioners in the cross-examination.

Per contra, the learned counsel for the second respondent would submit that by allowing the petition, no prejudice would be caused to the petitioners since they will be given an opportunity to cross examine the second respondent and also confronting the documents vis-à-vis the admissions, if any, made during the course of the cross-examination. Further, the counsel appearing for the second respondent brought to the notice of this Court that the documents sought to be received in evidence relates to statement of account, receipt book, form-11, minutes and declaration form which goes to show the payment of the amounts.

From a perusal of the material on record, it is disclosed that the documents sought to be summoned are only the documents pertaining to the transaction in question.

As far as the scope of Section 311 Cr.P.C. is concerned, it has been liberally considered by this Court and the Apex Court on many occasions. Be that as it may, without going into the merits of the case, when the petitioners are being given an opportunity to cross-examine the witnesses with reference to the documents, this Court feels that no prejudice would be caused, more so, the apprehension that the admissions made earlier will be erased. Therefore, there are no merits in the criminal revision and the same is accordingly dismissed. It is needless to observe that the petitioners

should be given an opportunity to cross-examine the second respondent on the documents received pursuant to allowing CrI.M.P.No.31 of 2018.

Miscellaneous petitions, if any, pending in this criminal revision case shall stand closed.

P. KESHA VA RAO,J

Date:19.06.2018
Ccm



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