

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.4973 OF 2018

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") questioning the order dated 18.04.2018 passed in CrI.M.P.No.71 of 2018 in C.C.No.38 of 2016 on the file of the Special Magistrate Court – V, Hyderabad, whereby the petition filed under Section 311 of Cr.P.C. was dismissed.

The petitioner herein filed CrI.M.P.No.71 of 2018 in C.C.No.38 of 2016 under Section 311 of Cr.P.C. to recall P.W.1 for cross-examination on the ground that CrI.M.P.No.2073 of 2016 filed before the Court below to club the another C.C. along with C.C.No.38 of 2016 to conduct joint trial was dismissed on 17.01.2017 and the R.P.No.52 of 2017 preferred against the said order was dismissed by the Metropolitan Sessions Judge, Nampally. Thereafter, petitioner filed Criminal Petition No.2081 of 2017 before this Court and the same was dismissed. Therefore, the petitioner is not at all responsible for not proceeding with the trial and sought to allow the petition.

Learned counsel for the respondent No.1 agreed to recall P.W.1 for cross-examination and to proceed further from the stage, where the proceedings are stopped.

In view of the concession given by the learned counsel for the respondent No.1, I deem it appropriate to permit the petitioner herein to recall P.W.1 for cross-examination. Therefore, order dated 18.04.2018 passed in CrI.M.P.No.71 of 2018 in C.C.No.38 of 2016 by the Special Magistrate-V, Hyderabad, is liable to be set aside.

In the result, the criminal petition is allowed. The order dated 18.04.2018 passed in Crl.M.P.No.71 of 2018 in C.C.No.38 of 2016 by the Special Magistrate-V, Hyderabad is hereby quashed. Crl.M.P.No.71 of 2018 in C.C.No.38 of 2016 is allowed and the Court below is directed to recall P.W.1 for cross-examination. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

23.08.2018
Ksp

