

HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.1501 of 2018

ORDER

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

The present criminal revision case is filed questioning the orders dated 13.03.2018 passed in CrI.M.P.No.785 of 2018 in C.C.No. 283 of 2016, on the file of the Court of the Special Magistrate-V, Visakhapatnam, dismissing the petition to permit the petitioner to file the enlisted documents as evidence on her behalf.

The facts of the case in brief are that the second respondent, filed C.C.No. 283 of 2016 against the petitioner for the offence under Section 138 of Negotiable Instruments Act. Pending the C.C., the petitioner filed CrI.M.P.No.785 of 2018 seeking permission of the Court below to file documents mentioned therein as evidence on her behalf under Sections 247 and 294 Cr.P.C. The second respondent filed counter stating that there is no relevancy between the documents sought to be brought on record and the issue involved in the case. After hearing both sides, the learned Special Magistrate dismissed the petition by orders dated 13.03.2018. Aggrieved by the same, the present criminal revision case is filed.

The learned counsel appearing for the petitioner, contended that the Court below ought to have received the documents since the husband of the petitioner is the prime person who is behind the scene and got filed the present case against her in the Court below through the second respondent. There are number of cases between the petitioner and her husband under Section 498-A IPC,

divorce petition etc. He also submitted that mere receipt of the documents and marking the same would not amount to admission of the documents and the second respondent will be given an opportunity to cross-examine the petitioner and therefore, no prejudice would be caused to him if the documents are brought on record.

Per contra, the learned counsel for the second respondent submitted that the petition as filed before the Court below is neither maintainable on facts nor in law. The documents sought to be brought on record, have absolutely no connection of whatsoever with the subject issue involved in C.C.No.283 of 2016. The issue involved in the said calendar case is that whether the subject cheque was issued towards the legally enforceable debt. The documents relating to the receipt issued by the S.H.O. Women Police Station, Visakhapatnam, the letter addressed by the counsel for the petitioner to the PIO, Women Counselling Cell, Visakhapatnam under the RTI Act, reply and the receipt issued in that regard, the complaint given by the petitioner to the police, the copy of the F.I.R. and the proceedings in FCOP Nos.635 of 2015 and 1441/2015 and bank account copy issued by the Axis Bank are the issue involved in the case. They all pertain to the disputes between the petitioner and her husband. The learned counsel also brought to the notice of this Court that when the petitioner has taken a specific plea that he has not issued the cheque, the question of permitting him to produce the said documents absolutely no relevance.

Having heard both the learned counsel and from the perusal of the material on record, it is revealed that the second respondent filed a complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments Act. The core issue to be considered in the said complaint is as to whether the subject cheque was issued towards legally enforceable debt between the petitioner and the second respondent. To adjudicate the said issue, various disputes between the petitioner and her husband, and the proceedings initiated in respect of them, have absolutely nothing to do with the issue involved in C.C.No. 283 of 2016. In fact, the learned Magistrate, also after perusal of the documents, was pleased to observe that the documents have no nexus with the petitioner or the second respondent. Though the petitioner have stated that those documents are very much relevant for the purpose of the case, there is absolutely no reason forthcoming as to how the said documents are relevant to decide the issue of legally enforceable debt towards which the subject cheque was issued. In these circumstances, this Court is of the opinion that there is no irregularity or illegality in the order passed by the Court below in dismissing the petition.

Accordingly, there are no grounds in the criminal revision case and the same is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA VA RAO, J

Date: 20.07.2018.
CCM

HON'BLE SRI JUSTICE P. KESHAVA RAO



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