

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.6079 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C'), is filed to quash the order, dated 01.03.2018, in M.P.No.337 of 2018 in C.C.No.158 of 2015 (Old CC.No.727 of 2015, on the file of IX ACMM) on the file of XVI Special Magistrate, Hyderabad.

2. The petitioner herein filed the aforesaid M.P. under Section 311 Cr.P.C. to recall P.W.1 for further cross-examination, since certain important aspects were not put to him at the time of cross-examination.

3. The respondent herein filed counter-affidavit denying the material allegations *inter alia* contending that P.W.1 was cross-examined at length and in the absence of any specific question, the petitioner is not entitled to seek relief under Section 311 Cr.P.C; that the petition is filed only to fill up lacunas in the case of defence and hence prayed to dismiss the petition.

4. The Court below, having accepted the contention of the respondent that the petition is silent with regard to on what details the petitioner is proposed to cross-examine P.W.1 and in the absence of any details, only on the basis of bald allegations, the witness cannot be recalled and accordingly, dismissed the petition.

5. During hearing, learned counsel for the petitioner requested this Court to permit the petitioner to re-call P.W.1 only to confront the signature on the subject matter of cheque. However, the counsel for the respondent opposed the same.

6. In view of the request made by learned counsel for the petitioner and to bring the entire evidence on record to have a fair trial, I deem it appropriate to set aside the impugned order.

7. Accordingly, the Criminal Petition is allowed setting aside the order, dated 01.03.2018 in M.P.No.337 of 2018 in C.C.No.158 of 2015 (Old CC.No.727 of 2015, on the file of IX ACMM) on the file of XVI Special Magistrate, Hyderabad, permitting the petitioner to recall P.W.1 for further cross-examination only to confront the signatures on subject matter of cheque. The Court below is directed not to allow the petitioner to cross-examination of P.W.1 on any other aspect, except confronting the signature on the subject matter of cheque. The Court below is directed to fix a specific date for cross-examination of P.W.1 and thereafter, the matter shall be disposed of in accordance with law.

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

M.SATYANARAYANA MURTHY, J

JULY 27, 2018
YVL

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Dt.27.07.2018

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