

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.6430 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C to quash the proceedings against the petitioners in CrI.M.P.No.2014 of 2018 in C.C.No.44 of 2012 on the file of Judicial Magistrate of I Class, Palakol, West Godavari. CrI.M.P.No.2014 of 2018 is filed to issue summons to the Assistant Labour officer, Railway Goods Shed Road, Palakole to produce the lease deed, rent receipts and other papers pertaining to D.No.31-3-2 since 1994 upto eviction of the office.

A private complaint was filed against this petitioner for the offences punishable under Sections 107, 108, 120(b), 141, 423, 463, 464, 468, 469, 470, 471, 474 r/w 34 IPC, mainly on the ground that the Will was fabricated by the accused, collected and used the same as genuine. The document sought to be produced are only the lease deed, rent receipts and other papers pertaining to D.No.31-3-2 since 1994 upto eviction of the office, as the labour office ws in occupation of 315 sq.yds of land earlier to execution of the Will. But, in a private complaint filed for the offences mainly on the ground that, Will dated 14.11.1998 was created or fabricated, the lease in favour of labour office is not relevant for deciding the real controversy. If, for any reason, the petitioner succeeds in proving that the Will is forged or fabricated, he can claim share in the land, if any. Therefore, lease deed and rent receipts are not relevant to decide the real controversy.

According to Section 311 Cr.P.C, any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

Section 311 Cr.P.C contains two limbs. The first limb is discretion of the Court and the second limb does not confer any discretion and it is obligatory for the Court to summon, recall and re-examine a witness, if the Court finds that the evidence of the proposed witness is necessary to decide the real controversy between the parties, effectively.

In the present case, an application was filed under Section 311 Cr.P.C to summon the labour office to produce certain documents. But, it would not fall within the first limb of Section 311 Cr.P.C, thereby, the present petition is liable to be dismissed on the ground that the documents are not relevant for deciding the real controversy at this stage while exercising power under Section 482 Cr.P.C.

Hence, I find no ground to quash the proceedings against the petitioners in CrI.M.P.No.2014 of 2018 in C.C.No.44 of 2012 on the file of Judicial Magistrate of I Class, Palakol, West Godavari. However, the petitioners are at liberty to raise all their pleas during trial and on raising such pleas, the Magistrate concerned is directed to decide C.C.No.44 of 2012, in accordance with law.

With the above observation, the criminal petition is dismissed.

Consequently, miscellaneous applications pending if any, shall stand dismissed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:23.07.2018

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