

SMT. JUSTICE T. RAJANI

CRIMINAL PETITION No.8282 OF 2011

ORDER:

This Criminal Petition, under section 482 of Cr.P.C., is filed by the Petitioner/Accused seeking to quash the order, dated 08.08.2011, passed in CrI.M.P. No.4258 of 2011 in C.C. No.421 of 2010, on the file of the Court of XVI Additional Judge, City Civil Court-cum-XX Additional Chief Metropolitan Magistrate, Hyderabad (for short, 'the trial Court'), by virtue of which, the trial Court partly allowed the Petition to the extent of permitting the petitioner herein to recall P.W.1 only for the purpose of cross-examining with regard to his financial capacity, while declining to cross-examine him with regard to the acquaintance aspect.

2. Heard learned counsel for the petitioner and learned Public Prosecutor appearing for the 2nd respondent – State. None appears for the 1st respondent – complainant, in spite of service of notice.

3. The order is impugned on the ground that though the trial Court permitted the petitioner to recall the complainant, who was examined as P.W.1, and cross-examine him, restricted the cross-examination only to the aspect of his capacity to lend the amount.

4. Learned counsel for the petitioner now submits that the witness needs to be cross-examined on other aspect also.

5. A perusal of the petition filed by the petitioner in the trial Court shows that it was filed on the ground that the cross-examination of P.W.1 was not done thoroughly by his earlier counsel, due to oversight. Further, it was mentioned therein that the respondent – complainant is not having acquaintance with the petitioner – accused and he is not having the financial capacity to lend the amount to the petitioner. The trial Court seems to have not taken this aspect into consideration and restricted the cross-examination

of P.W.1 only to the aspect of capacity. But the other contents of the petition show that permission to cross-examine P.W.1 with regard to other aspects was also sought.

6. Hence, the impugned order set-aside in part. Accordingly, the petitioner is permitted to recall the complainant, P.W.1, to cross-examine him without any restriction.

7. Accordingly, with the above observation, the Criminal Petition is allowed.

8. As a sequel, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Date: 25.09.2018.
Dsh

T. RAJANI, J



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Date. 25.09.2018

DSH