

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.8163 of 2018

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed questioning the Order dt. 24.07.2018 in CRP No.16 of 2018 passed by the Principal Sessions Judge, Ongole, confirming the Order passed by the Judicial Magistrate of First Class, Special Mobile Court, Ongole, in CrI.P.M.P.No.7550 of 2017 in C.C.No.50 of 2016 , whereby the Magistrate allowed the petition to amend the complaint after recording cross examination of both witnesses Pws. 1 and 2 on the ground that the date of promissory notes were mentioned correctly in the list of documents, but whereas, in the body of the complaint, a mistake was crept in and no prejudice would be caused to the petitioner even if the amendment is allowed.

The petitioner before the trial Court is the complainant, who filed a petition seeking leaving of the Court to amend dates of the promissory notes in the body of the complaint as the dates were mentioned wrongly and it is a typographical mistake. This fact was disputed by the respondent therein by filing a Counter while contending that though it is a mistake, it cannot be rectified after cross examination of Pw.1 and it is nothing but filling of lacunas and at this stage, such power cannot be exercised and requested the Court to dismiss the petition.

Both the Courts upheld the contention of the respondent herein /complainant on the ground that no prejudice would be caused to the petitioner herein and permitted the complainant to

correct the typographical mistakes as to the dates of promissory notes.

The present petition is filed on various grounds, but mainly on the ground that permitting to amend the petition would amount to filling of lacunas and even in cross examination of PW.1, he admitted about the date of promissory notes, but both the Courts did not consider the plea raised by this petitioner herein and committed an error in allowing the petition filed by the complainant and requested this Court to dismiss the petition.

The main contention of the learned counsel for the petitioner before this Court is that permitting the complainant to amend the body of the complaint is nothing but filling of lacunas when the suit was posted for arguments after completion of cross examination.

If for any reason, the petitioner intends to cross examine the witness, he may file a petition under Section 311 CPC to cross examine the witness after rectifying the mistakes as pointed out in the petition to the extent of the years of promissory notes, but it will not denude the trial Court to exercise power to rectify such mistakes and therefore, in the absence of any prejudice being caused to the petitioner herein, the Order passed by both the Courts cannot be interfered with. Hence, the present petition is liable to be dismissed giving liberty to the petitioner to file appropriate application to recall Pws. 1 and 2 if advised but cross examine the witness only to the extent of year of the promissory notes.

With the above observation, this Criminal Petition is dismissed.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

Date: 13-08-2018
eha



HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



eha