

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE NO.2248 OF 2018

ORDER:

This revision is arising out of docket order, dated 26.07.2018 passed in CrI.M.P.No.3384 of 2018 in C.C.No.139 of 2018 by the III Special Magistrate Court, Kukatpally.

2. The 1st respondent herein is the complainant, who has filed the petition under Section 311 Cr.P.C. to re-call P.W.1 for further examination. Counter was filed by the petitioners herein-accused by opposing the petition.

3. The trial Court on consideration of material, to give an opportunity to the 1st respondent-complainant has ordered re-call of P.W.1 for further examination subject to payment of costs of Rs.500/- payable to the petitioners-accused.

4. Heard the learned counsel for the petitioners-accused and the learned counsel for the 1st respondent-complainant and perused the material on record.

5. Learned counsel for the petitioners submits that the order passed by the trial Court is not in accordance with law. The trial Court has not given specific reasons for allowing the petition filed under Section 311 Cr.P.C. He relied on a decision reported in **RATANLAL V PRAHLAD JAT AND OTHERS**¹ and submits that the Court has discretionary power to summon any person as a witness or examine any person in attendance though not summoned as a witness and re-call or re-examine any person already examined.

¹ (2017) 9 SCC 340

While exercising that power, the Court has to give valid reasons for re-calling the witness.

6. Learned counsel for the 1st respondent-complainant submits that the revision itself is not maintainable as the order passed by the trial Court is an interlocutory order and it is not determining the rights of the parties finally in the case. It is further submitted that the trial Court has exercised its discretion and on imposing costs of Rs.500/-, permitted to re-call P.W.1 for further examination.

7. Admittedly, the trial Court has got discretionary power to re-call the witness. The trial Court has stated in its order that it has considered the facts and circumstances of the case and in the interest of justice, ordered re-call of P.W.1 for further examination, but, however imposed costs of Rs.500/-. Since the case is pending before the trial Court and re-calling of P.W.1 for further examination is not going to cause any prejudice to the parties, the petitioners-accused would be given an opportunity to cross-examine the witness. Therefore, the petitioners-accused are given liberty to raise all pleas before the trial Court and the trial Court may consider the pleas raised by both parties and dispose of the matter. Therefore, there are no grounds to interfere with the order passed by the trial Court in ordering re-call of P.W.1 for further examination.

8. With the above observation, the Criminal Revision Case is disposed of. Miscellaneous petitions, if any pending in this revision shall stand closed.

GUDISEVA SHYAM PRASAD, J

DATED: 30-10-2018

Hsd

