

HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Crl.R.C.No.2333 of 2018

ORDER:

This revision case is arising out of the order dated 07.08.2018 passed in Crl.M.P.No.2738 of 2018 in C.C.No.913 of 2010 on the file of XIII Additional Chief Metropolitan Magistrate, Mahila Court, Hyderabad.

2. The revision petitioner is the *de facto* complainant in C.C.No.913 of 2010. During the trial, the prosecution has filed a petition under Section 311 Cr.P.C. for recalling the witness PW.3 to mark certain documents which could not be marked due to oversight by the prosecution. After hearing the arguments, the trial Court dismissed that application mainly on the grounds that the petition was filed at a belated stage to fill up the lacunas on behalf of the prosecution, and that the case was at the stage of arguments. Aggrieved by the impugned order, this revision has been preferred by the *de facto* complainant.

3. Heard the learned counsel for the petitioner and learned counsel for respondent No.2 and learned Addl. Public Prosecutor for respondent No.1-State.

4. Learned counsel for the petitioner submitted that the petitioner is the *de facto* complainant and his rights would be prejudiced if the documents are not marked before the trial

Court. The learned Assistant Public Prosecutor, due to oversight, could not mark those documents. The documents are :

1. Patta issued by GHMC dated 12.03.2010 in the name of father of the *de facto* complainant before marriage.

2. Sale certificate issued by Bajaj Allianz dated 29.05.2008 towards purchase of gold ornaments at Chandana Brothers.

5. The prosecution intends to rely on those documents to prove their case.

6. Learned counsel for the 2nd respondent submits that the prosecution was given sufficient opportunity, but in spite of taking ten adjournments, they did not choose to file the documents and also their reply arguments, and they are trying to drag on the proceedings to harass the respondent on one pretext or other.

7. Having regard to the facts and circumstances of the case, the documents sought to be marked by the prosecution are very important for them to prove their case. Therefore they have filed the present petition for recalling the witness PW.3 for examination as their witness and mark the above documents.

8. It is also the case of the petitioner that the documents sought to be marked were already filed in DVC case and the same were also served on the defence. In spite of that fact, the trial Court has not allowed the petition.

9. Usually, the petitions under Section 311 Cr.P.C. are Interlocutory in nature, and therefore they are not being entertained in Criminal Revisions. But in view of the facts and circumstances of this case, in the interest of justice, to provide an opportunity to the prosecution, it would be appropriate to order the trial Court to receive those documents and recall the witness PW.3 for further examination.

10. Therefore, the petitioner is directed to file those documents within three (03) days from today before the trial Court, and on such furnishing of documents, the trial Court may recall the witness PW.3 for examination and mark them within a week's time and hear the arguments of both sides.

11. With these observations, the Criminal Revision Case is disposed of.

Miscellaneous Petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J.

Date : 31-10-2018
 Note : C.C. tomorrow.
 (B/o)
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