

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CRIMINAL REVISION CASE NO.2392 OF 2018

ORDER:

This revision is arising out of order, dated 25.07.2018 passed in CrI.M.P.No.1695 of 2018 in C.C.No.13 of 2018 (old C.C.No.100 of 2014) by the XIX Special Magistrate, Hyderabad.

2. Heard the learned counsel for the petitioner and perused the material on record.

3. Learned counsel for the petitioner submits that the order passed by the learned Magistrate in dismissing the application of the petitioner, does not contain the valid reasons. The 1st respondent is having two accounts in the bank. One is current account and another is savings account. The 1st respondent cross-examined the witness in respect of current account and he had not cross-examined the witness in respect of the savings account. Therefore, the petitioner has filed a petition under Section 91 Cr.P.C. r/w Sections 4 and 6 of Banking Books Evidence Act, 1991, to call for the statement of account of the complainant for the period from 01.01.2011 to 31.03.2011 in respect of Account No.400 of the complainant and the said petition was dismissed. The learned counsel for the petitioner sought to set aside the order of the trial Court, on the above grounds.

4. A perusal of the order passed by the trial Court reveals that the evidence of both parties was closed and the matter was coming up for examination of the accused under Section 313 Cr.P.C. At that stage, the petitioner has filed the present application for summoning certain documents. The trial Court came to the conclusion that the petitioner has no right to get the documents marked after summoning

the same and that he was not entitled to file any petition for re-opening and re-calling of witness, as the witnesses were already examined.

5. At the outset, the order passed by the learned Magistrate reveals that the case is at the stage of Section 313 Cr.P.C. examination after completion of evidence of both parties. At that stage, re-calling of witness and re-opening of the case was not necessary for the reasons stated by the petitioner. The C.C. pertains to the year 2014, which was filed under Negotiable Instruments Act. The trial Court on consideration of merits, has dismissed re-calling of petitioner for the purpose of further cross-examination. In fact, the revision against interlocutory order is not maintainable in view of provision under Section 397 (2) Cr.P.C. Even on merits also, it is not a fit case for consideration.

6. Accordingly, the Criminal Revision Case is dismissed. Miscellaneous petitions, if any pending in this revision shall stand closed.

GUDISEVA SHYAM PRASAD, J

DATED: 29-11-2018

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