

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11464 OF 2017

ORDER:

This Criminal Petition, under Section 482 of Cr.P.C., is filed by the petitioner-accused seeking to quash the order dated 15.11.2017 passed in CrI.M.P. No.2546 of 2017 in C.C. No.265 of 2014 on the file of the II Special Magistrate, Erramanzil, Hyderabad.

2. Heard the learned counsel for the petitioner-accused, learned counsel for the 1st respondent-complainant and the learned Additional Public Prosecutor appearing for the 2nd respondent-State, apart from perusing the material available on record.

3. Learned counsel for the petitioner-accused would submit that the learned Magistrate ought not have allowed the impugned application filed by the 1st respondent herein to recall P.W.1 for further chief-examination; the recall application is filed to fill up lacunae and it is not permissible at the stage of arguments; the 1st respondent herein filed the said application at the fag end; the learned Magistrate erred in allowing the application without considering the crucial aspects of the case; and ultimately, prayed to allow the Criminal Petition by dismissing the impugned application.

4. On the other hand, learned Additional Public Prosecutor opposed the relief sought by the petitioner.

5. The learned counsel for the 1st respondent would submit that there is no infirmity in the impugned order and prayed to dismiss the Criminal Petition.

6. As seen from the record, the 1st respondent herein filed an application in CrI.M.P. No.2546 of 2017 in C.C. No.265 of 2014 to recall P.W.1 and the same was allowed by the learned Magistrate by order dated 15.11.2017. The 1st respondent herein wanted to mark the authorization given by its Managing Director. The authorization already marked as Ex.P.31 does not relate to the instant case. It is also brought to the notice of the Court that the correct authorization is already filed along with the material documents after due notice to the other side, but due to oversight, it was not marked. Marking of authorization would not amount to filing up the lacunae and there is no reason to deny the marking of the authorization. The marking of the correct authorization would not cause prejudice and change the factual circumstances of the case. The authorization in question is necessary and relevant to the facts and circumstances of the case. There is no infirmity in the impugned order and the same is liable to be confirmed.

7. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 19-03-2018

siva