

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.6645 OF 2017

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973, is filed by the petitioner/complainant seeking to quash the order, dated 20.06.2017, in CrI.M.P.No.142 of 2017 in C.C.No.269 of 2015 on the file of XIV Special Magistrate, Hyderabad.

2. Heard both sides. Perused the record.

3. Learned counsel for the petitioner/complainant would contend that the petitioner/complainant by mistake marked Exs.P1 to P8 in the subject Calendar Case on 25.10.2016; that the said documents pertain to some other case; that the petitioner/complainant will file the certified copies of the said documents in the subject Calendar Case; that the petitioner/complainant require the originals of the said documents in order to prosecute the other Calendar Case in C.C.No.270 of 2015 pending on the file of same Court; that the petitioner/complainant filed an application under Rule 219 of the Criminal Rules of Practice (for short, 'the Rules') and the said Rule enables the petitioner/complainant to take back the documents, if they are not necessary in the subject Calendar Case; that the Court below erroneously held that the order of return of the documents would amount to pre-judging the case and ultimately, prayed to allow the petition.

4. Learned counsel for respondent No.2/accused would contend that the impugned order is in compliance of Rule 219 of the Rules; that the subject documents can be returned to the petitioner/complainant on completion of trial; that, at this stage, the petitioner/complainant is not entitled to take back the subject documents i.e., Exs.P1 to P8 and ultimately, prayed to dismiss the petition.

5. In view of the submissions made by both sides, it is appropriate to refer to Rule 219 of the Rules, which reads as follows:

“219. Return of documents - application to be made therefor:-

Applications from parties or other persons for the return of documents filed in Court shall be made to the Court in which they were originally filed. If application is made for any document which has been transmitted to another Court, the Court in which the document was originally filed shall itself apply for the transmission of the documents and on receipt shall return it to the applicant:

Provided that no document shall be returned unless the Judge or Magistrate is satisfied that it will not be required for reference in proceedings pending either before his own Court or the Court of Appeal or Revision.”

6. In the said Rule, it is specifically mentioned that no document shall be returned, unless the Judge or Magistrate is satisfied that it will not be required for reference in the

proceedings pending either before his own Court or the Court of Appeal or Revision.

7. In the instant case, the specific case of the petitioner/complainant is that the documents (Exs.P1 to P8) are not relevant for adjudication of the subject matter in the subject Calendar Case No.269 of 2015, but they are required in C.C.No.270 of 2015 pending on the file of the same Court. It is also submitted that the petitioner/complainant is ready to file the certified copies of the subject documents in the subject Calendar Case, so as to take back the originals of the same and to file in C.C.No.270 of 2015.

8. It is evident from the record that Exs.P1 to P8 are not relevant to the subject Calendar Case. When the documents are irrelevant, pending adjudication of the subject Calendar Case, they can be returned to the person, who filed the same i.e., the petitioner/complainant, after being substituted by certified copies of those documents.

9. Under these circumstances, the Criminal Petition is allowed and the order, dated 20.06.2017, in Crl.M.P.No.142 of 2017 in C.C.No.269 of 2015 on the file of XIV Special Magistrate, Hyderabad, is set aside. The Court below is directed to return the originals of Exs.P1 to P8 in C.C.No.269 of 2015 to the petitioner/complainant, subject to the petitioner/complainant filing the certified copies of the said documents.

Miscellaneous Petitions, if any, pending in this Criminal
Petition shall stand closed.

Dr. SHAMEEM AKTHER, J

April 01, 2019.
MD

