

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

Crl.P.No.1194 of 2016

ORDER:

The petitioner is accused in C.C.No.194 of 2015 on the file of the III Special Magistrate, Hastinapuram at L.B.Nagar, R.R. district, which is outcome of a private complaint for the offence under Section 138 of N.I. Act of 2nd respondent complainant taken cognizance and the accused is put to trial and in the course of trial, P.Ws.1 to 3 were examined on behalf of the prosecution. After completion of prosecution from reporting, if any, the next stage is Section 313 Cr.P.C. examination of the accused inevitably, which is at this stage, before completion of Section 313 Cr.P.C. examination, accused filed a petition in Crl.M.P.No.2029 of 2015, saying P.Ws.2 and 3 were examined and cross-examined and they stated that they went to the canteen in the ground floor of the office of the complainant and called her on mobile informing that they were waiting at the canteen and asked her to come down to the canteen and the same is not true according to the accused and to establish the same, it is necessary to summon the Security Officer, Google India Private Limited, Block-1, Divyasree Omega, Survey No.13, Kondapur, to adduce his evidence by bringing the footage of C.C. camera fixed at the entrance of the office of the complainant for the entire day of 1.7.2013 and the entry register kept, of that date, to produce. The petition was dismissed, saying there is no basis to say that there was any C.C. camera or any register. Same is impugned herein.

2. The counsel for the petitioner/accused contended that the trial Judge went wrong in dismissal of the petition without proper appreciation of evidence including from the counter contest to the petition of the complainant.

3. Whereas, it is the submission of the counsel for the complainant/respondent to the present petition that the order is a reasoned one and no where it requires any interference for this Court invoking Section 482 Cr.P.C. and hence liable to be dismissed.

4. Heard and perused the material on record, including the grounds and the impugned order supra. It is, in fact, without going into the merits, premature on the part of the accused to ask to summon a document to adduce defence evidence without even completion of the prosecution evidence of the complainant and Section 313 Cr.P.C. examination.

5. Having regard to the above, if at all the complainant wants to adduce any such evidence available with him, he can adduce. If not, if it is relevant, it is left open to the accused in defence, at the relevant time, to file any such application to make a foundation for its consideration on its own merits uninfluenced by the impugned dismissal order, now covered by the disposal order.

6. With these observations, petition is disposed of, rather than dismissal. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

Date: 6.2.2019
DA

Dr.SSRB,J

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