

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION No.11384 OF 2018

ORDER:

This Criminal Petition, under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed by the petitioner/accused seeking to quash the order, dated 07.06.2018 passed in CrI.M.P.No.1379 of 2018 in C.C.No.95 of 2016 on the file of Special Magistrate-V, Hyderabad.

2. Heard the learned counsel for the petitioner/accused, Sri N.Krishna Sumanth, learned counsel for the 1st respondent-complainant and perused the record.

3. Learned counsel for the petitioner/accused would submit that the petitioner/accused intends to put some questions with regard to filing of income tax returns by the 1st respondent-complainant, who deposed as P.W.1 in the subject Calendar Case, but the Court below did not give an opportunity to put forth those questions and erroneously dismissed the petition to recall P.W.1 and ultimately, prayed to set aside the impugned order and allow the application.

4. On the other hand, learned counsel for the 1st respondent-complainant would submit that ample opportunity was given to the petitioner/accused even after closure of evidence of 1st respondent-complainant; that the application is filed in order to delay the proceedings and ultimately, prayed to dismiss the application.

5. As per the material placed on record, the contention of the petitioner/accused is that the 1st respondent-complainant has no capacity to lend the subject money. The disputed cheque was not issued towards any amount due. It is contended on behalf of the petitioner/accused that two blank cheques and 25 blank signed promotes were taken by the 1st respondent-complainant by force. There is no legally enforceable debt in between the parties.

6. As per the records, P.W.1 was examined on 15.02.2017. Cross-examination was deferred at the request of the petitioner till 18.04.2017. The trial Court had recorded that P.W.1 was examined at length. On 03.04.2018 the Court constrained to record no further evidence for 1st respondent-complainant and accordingly, closed the evidence. The petitioner/accused filed the petition under Section 311 Cr.P.C to recall P.W.1 for further cross-examination on 10.05.2018 i.e., after examination of the petitioner under Section 313 (b) Cr.P.C on 19.04.2018. It appears from the record, the petition filed by the petitioner/accused to recall P.W.1 was an afterthought in order to protract the proceedings even after thorough cross-examination of P.W.1. The trial Judge had given elaborate reasons in dismissing the application.

7. The finding recorded by the trial Court is based on the evidence and record. There is no illegality or improbability in the impugned order passed by the Court below to call for interference of this Court.

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

Dr. SHAMEEM AKTHER, J

APRIL 08, 2019
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THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER



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Date:08.04.2019

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