

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

Crl.R.C.Nos.3558 of 2018, 3569 of 2018 & 19 of 2019

COMMON ORDER:

Heard learned counsel for the petitioner, complainant in C.C.No.176 of 2015 and the learned counsel for the respondents 2 & 3/A-1 & A-2 and the learned Public Prosecutor representing the 1st respondent State to these revision cases and perused the grounds urged in the revision cases and the impugned orders of the learned XXIII Special Magistrate in Crl.M.P.Nos.5389, 5390 & 5391 of 2018 respectively for the prayers to reopen the prosecution evidence, to recall P.W.1, to mark additional documents and to receive the additional documents.

2. Among the additional documents sought in Crl.M.P.No.5391 of 2018, first document is the passbook of the Bank Account of the petitioner/complainant to show that the cheque issued by the accused in mentioning the account number without name is relates to the account of the petitioner and thereby the cheque issued to him in support of his claim and sofar as the other documents placed reliance, those are no way pertains to the case, much less relevant, for those are the transactions between P.W.3 and accused for the alleged cheating of accused previously P.W.3. P.W.3 already examined and he did not depose any such fact, leave about, but for in reply, if at all any good character of accused adduced by him, for the prosecution or complainant to adduce evidence of bad character, otherwise irrelevant within the scope of Sections 54 read with 136 of the Indian Evidence Act, 1872. Thereby those documents are not relevant and no way connected with the matter in the case on hand. The trial Court dismissed the petition even for recall of P.W.1 without considering the requirement of the exhibiting of the said Bank passbook of the

P.W.1/petitioner/complainant to show that the account mentioned in the passbook is the one and the same for which the cheque issued by the accused as relates to the complainant, which is relevant and essential for just decision of the case.

3. Having regard to the above, these Criminal Revision Cases are disposed of by allowing the petition only to the above extent of receiving of the said Bank passbook of the petitioner/complainant and to exhibit the same by complainant by recall, subject to costs of Rs.2,000/- (Rupees two thousand only) to Army Welfare Fund payable and proof to be filed before the trial Court within one (01) week from the date of receipt of a copy of this order and in the case of non-compliance, the orders of lower Court hold good for all purposes.

Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

Date: 30th January, 2019

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