

THE HON'BLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No.6637 of 2019

ORDER:

This Criminal Petition, under Section 482 of Code of Criminal Procedure, 1973, is filed by the petitioner/complainant seeking to quash the order, dated 23.08.2019, passed in CrI.M.P.No.1979 of 2019 in C.C.No.153 of 2017 by the XV Additional Judge-cum-XIX Additional Chief Metropolitan Magistrate, Secunderabad.

2. Heard the learned counsel for the petitioner/complainant, the learned counsel for the 2nd respondent and perused the record.

3. The petitioner herein filed by the aforesaid Miscellaneous Petition under Section 91 Cr.P.C. to summon the Bank Manager of the Syndicate Bank, Jubilee Hills Branch, Hyderabad, for his examination and production of documents. The Court below after considering the material available on record, dismissed the said petition on the ground that there is no substance in the petition and also observed that there is no necessity to summon the Bank Manager to give evidence.

4. Learned counsel for the petitioner/complainant would submit that the Court below passed the impugned order automatically without proper application of judicial mind; that though the petitioner filed his sworn affidavit disclosing the necessity of production of materials as well as calling of witness, the Court below without looking into the same, erroneously dismissed the application and ultimately, he prayed to set aside the impugned order.

5. On the other hand, learned counsel for the 2nd respondent while supporting the impugned order passed by the Court below would submit that the petitioner has not mentioned in the affidavit filed in support of the impugned application whether he intends to examine the Manager of the Bank, or whether he intends to get production of the documents and

records in connection to the account of the 2nd respondent maintained by it, and ultimately prayed to dismiss the criminal petition.

6. As seen from the record, the Calendar Case is coming up for arguments. According to the petitioner, the 2nd respondent obtained loan of Rs.10,00,000/- from him and a Memorandum of Understanding (MOU) was executed between them and it was witnessed by one Mahender Agarwal. But, during the cross-examination of the 2nd respondent, he disputed about cheque in question issued along with MOU at the time of its execution. In the counter filed by the 2nd respondent before the trial Court, he stated that the Bank is no way concerned with the said MOU on the ground that the petitioner-complainant has taken a stand that he gave cheques along with MOU and therefore, the Bank officials have nothing to do with the same.

7. The Court below in the impugned order has rightly observed that the Bank Manager of Syndicate Bank, Jubilee Hills Branch, Hyderabad, is not at all a witness to the transaction between the petitioner and the 2nd respondent-accused, more particularly Ex.P.7-Memorandum of Understanding. Therefore, this Court does not find any ground to interfere with the order passed by the Court below. Therefore, the criminal petition is liable to be dismissed.

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

JUSTICE G.SRI DEVI

6th January, 2020

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Date:06.01.2020

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