

THE HON'BLE JUSTICE G.SRI DEVI

CRIMINAL PETITION No.7066 of 2019

ORDER:

This Criminal Petition, under Section 482 of Cr.P.C., is filed by the petitioner/accused seeking to quash the order dated 25.10.2019 in CrI.M.P.No.1458 of 2018 in C.C.No.888 of 2016 on the file of the learned XIV Additional Judge-cum-Additional Chief Metropolitan Magistrate, Secunderabad.

2. Heard learned counsel for the petitioner, learned Additional Public Prosecutor appearing for respondent No.1-State and Sri M.A.Nayeem, learned counsel for respondent No.2 and perused the record.

3. Learned counsel for the petitioner submitted that as the parties were negotiating for an out of Court settlement, learned counsel for the petitioner had merely asked couple of basic questions to P.W-1 in his cross-examination on 28.12.2018 and thereafter when the matter was posted on 17.6.2019 for further cross-examination, the request made to grant adjournment was rejected by the Court below and it has closed the further cross-examination of P.W-1. He has further submitted that after returning from America, learned counsel for the petitioner filed CrI.M.P.No.1458 of 2018 for recalling P.W-1 for further cross-examination but the same was dismissed by the Court below. Hence, in the circumstances, he prayed to allow this Criminal Petition.

4. Learned counsel for respondent No.2 submitted that the delay in cross-examining P.W-1 for about one year was not explained and hence, opposed to allow this petition.

5. The instant case relating to the offence under Section 138 of the Negotiable Instruments Act was filed in the year 2016; that the complainant had filed his chief affidavit only in April, 2018 and marked documents in July, 2018; that on 28.12.2018, the learned counsel for the petitioner commenced the cross-examination of PW-1 and his further cross-examination was deferred.

Keeping in view the aforesaid facts of the case, in the interest of justice, this Court is inclined to take a lenient view and allow this petition subject to certain conditions.

6. For the inconvenience caused to P.W-1 to face the cross-examination after 1 ½ years, he has to be adequately compensated by the petitioner. Accordingly, the Criminal Petition is allowed and the impugned order is set aside, subject to the petitioner paying costs of Rs.50,000/-, out of which, Rs.40,000/- shall be paid to the complainant, Rs.5,000/- shall be paid to the Telangana High Court Legal Services Authority and Rs.5,000/- to the Telangana High Court Advocates' Association, within a period of ten days from today. Subsequently, both the parties are directed to appear before the Court below and the Court below shall fix a date for further cross-examination of P.W-1, on which date the learned counsel for the petitioner shall cross-examine P.W-1 without fail and thereafter, the case shall be proceeded with in accordance with law.

7. Miscellaneous petitions, if any pending in this criminal petition, shall stand dismissed.

JUSTICE G.SRI DEVI

02nd March, 2020
dr