

Date:17-02-2024

ORDERS U/SEC.311 R/W SEC. 91 OF CR.P.C

The counsel for the complainant filed an application under Sec.311 R/w 91 of Cr.P.C, seeking to pass an order to recall the stage and permit the complainant to lead further chief by producing additional documents in the ends of justice.

2. The complainant states that the additional documents regarding earlier during the year 2013 and 2015 the accused given three cheques as under, the during the period 2013, the accused given two cheques on 27-03-2013 for Rs 12,00 Lakhs and 9,00 Lakhs bearing cheque No.675022 of Oriental Bank of Commerce Srinagar colony Hyderabad-73 belongs to accused C, Jyothi and cheque bearing No.490325 of ICICI Bank Kukatpalli Hyderabad-72 belongs to accused C.Jyothi daughter Chalsani Valli along with both counter slip submitting and moreover complainant hand loa amount adjusted from her own sister Smt,. G.Krishnakuari, the complainant requested to accused to pay the amount directly to complainant sister name then accused issued her cheque in the name of complainant sister Name G.Krisnakumari for Rs.2,00,000/- on 15-10-2015, but its also dishonor submitting along with counter

slip as per list of documents and now its necessary to prove the case of the complainant by filling these records to show that at the relevant time there is friendly financial transaction between accused, and accused family character under tendency in financial transaction. Along with landed property records and etc., The Hon'ble Court having vide and discretionary powers to allow the petition, therefore its necessary to prove the complainant case by giving an such opportunity. That further no prejudice will cause to accused for allowing this petition for production of documents and there will be an opportunity to accused to cross examine the complainant in respect of additional documents. Hence he prays to allow the application.

3. On the other hand, the accused in his objection has contended that the petition filed by the complainant for recalling of the complainant to mark the documents alleged to be given by the accused, her daughter and sister which are alleged to have been dishonoured. The said contention taken by the complainant, is not at all relevant for the present complaint. Even in the said petition, the complainant has not explained as to how the said alleged transaction are relevant to the alleged transaction referred in the present complaint. Moreover in the present complaint, there is no reference about the above referred cheques and therefore the same cannot

be permitted to be allowed to be marked in this case. Further on the ground that the accused will get right to cross examine on those documents, cannot be a ground for allowing this petition permitting the complainant to produced the documents, which are admittedly not concerned with the present alleged transaction referred in the complaint.

4. Accused further contended that the alleged documents are 3 cheques of different banks all are of the different years i.e., 2013 and 2015 which sought to be presented on the grounds stated there is not maintainable. The complainant, in her memo never stated that how those documents are related to the present case 2 cheques are admittedly not belong to the accused, one of the cheque which is allegedly signed by accused, is also not admissible as evidence since there is no any contention taken by the complainant as to how it related to the present complaint. Further 2 RPSs intending to be produced by the complainant, is also not helpful to the complainant as there is no any such reference about the said land with a specific pleading how it related to the present complaint. The ROR of Sy.No.22, is not standing in the name of complainant on her family members and therefore the said documents cannot be permitted to file the same. Hence, prays to reject the application with cost.

5. Heard and perused on both sides.
6. The only point would arise for determination is:
 1. Whether the complainant has made out the grounds to allow the application ?
 2. What Order?
7. My answer to the said points:

Point No.1	In the affirmative
Point No.2	As per final order for the following

REASONS

Point No.1:

8. The complainant and the accused have argued what they have stated in their respective application and objection. Now this case is posted for cross of DW-1, at this stage, the counsel for the complainant has filed present application to recall the stage and permit him to lead further chief by marking the additional documents.

9. The say of the counsel for the accused that, the complainant not stated how the alleged documents are related to the present case and only to harass the accused and to drag on the proceedings, he filed this application. At this state, it is useful to refer Section 311 of Cr.P.C, it empowers the court to any person as a

witness or examined any person in attendance, though not summoned as a witness or recalled and re-examined any person already examined. In view of the above provision, it is clear that the ambiguity that may arise during the course of cross examination of PW-1 and hence the re-examination of PW-1 is bearing on the ultimate decision of the case. Further it is always within the discretion of the court to permit or recall of PW-1 for re-examination-in-chief with permission of the accused to cross examine on relevant document. Further this court has ample power to permit any person to recall or re-examine who already examined. The complainant filed this application for recall her and permit her for marking the additional documents. If the application is not allowed, the complainant would suffer more hardship, on the other hand, no prejudice or hardship would be caused to the accused. The accused at liberty to cross examine the P.W. about the genuinity of the additional documents and how it is related to the present case. Therefore under the facts and circumstances of the case and to avoid multiplicity of the proceedings, in order to meet the ends of justice, if the application is allowed by imposing heavy cost it would meet the interest of justice. **Hence, I answer point No.1 in the affirmative.**

Point No.2:

10. For the foregoing reasons stated therein, and in view of my findings, point No.1, I proceed to pass the following;

ORDER

The application filed by the complainant under Sec.311 R/w Sec.91 of Cr.P.C is hereby allowed with cost of Rs.500/-.

The stage from cross of DW.1 is recalled. Complainant is permitted to lead further chief by producing additional documents as exhibits.

Call on

(Abdul Khadar)
Addl. Sr. Civil Judge
JMFC Bidar