

SCC No. 854/2015

A.P. M.C. Sindi Rly. Vs. Shrikrushna Ginning

ORDER BELOW EXH. 68

(Passed on 20.12.2023)

(CNR No.MHWR040011672015)

This is an application for grant of permission to adduce evidence on behalf of accused.

2. It is submitted by the counsel for accused that he want to examine the manager of his banker to prove some relevant document on record. It is contained that to prove the transactions entries of the accused firm, it is very necessary to examine bank manager of the banker of accused firm.

3. The say of complainant called upon. The counsel for complainant submitted that the case is fixed for argument. The instant application is nothing but to prolong the case. It is not the defence of accused as mentioned in the present application. Hence, he prayed to reject the application.

4. Heard, both side at sufficient length. Perused the application and say. On careful perusal of the record it appears that the case is of dishonor of cheque filed u/s. 138 of Negotiable Instrument Act. Since the year 2015 case is pending for adjudication. The complainant adduced his evidence and closed his evidence side by filing pursis on record. Thereafter, statement of accused u/s. 313 of Cr. Pc. Duly recorded and proper opportunity to adduce defence evidence was given to the accused.

He also examined the defence witness Swapnil Sonwane who is the Tahsildar of Tahsil Seloo. Thereafter, the accused filed a pursis below Exh. 67 and submitted that he does not want to lead further evidences. Therefore, the evidence side of accused closed and case was put up for final argument. The counsel for complainant argued his side on 08.11.2023 and case was fixed for the argument of accused. Thereafter, on 08.12.2023 instant application filed by the counsel for accused and prayed to permit him to adduce evidence of bank manager of his account, to prove the transaction entries of the account of accused. The accused has not filed supporting documents which he wants to prove. He also did not satisfy the court for what purpose he want to adduce the evidence of bank manager of his account. He failed to satisfy that as to why he has not been examined the bank manager on the given dates when the case was fixed for defence witnesses. It is the prime duty of accused to satisfy as to why he failed to examined said witness when the proper opportunity given to him. There is no cogent and satisfactory reason of his failure. It is the deliberate mistake of the accused. Nothing is on record to consider the necessity to examine the proposed witness.

5. The record shows that the instant application moved on record after closing the evidence side of accused on the basis of pursis wide exhibit 67 filed by accused himself. This application moved only for killing the time. The case seen to be 8 years old. The accused seen to be avail just, sufficient and proper opportunity to lead defence witnesses to prove his defence. The accused has

played more tactics to prolong the case. Hence, I do not find any substance in the instant application and I am not satisfied to allow the application. Thus I passed following order.

ORDER

- 1) The application Exh. 68 is hereby rejected.
- 2) Accused is directed to argue the case expeditiously.
- 3) Case be fixed for argument of accused.

Date- 20.12.2023

(S.W. Shegokar)
Judicial Magistrate First Class,
(Court No. 2) Seloo.