

THE HON'BLE MS JUSTICE B.S.BHANUMATHI

Criminal Petition No.2566 of 2023

ORDER :

This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') challenging the order dismissing the petition in CrI.M.P. No.397 of 2023 in C.C.No.136 of 2017 on the file of VI Additional Junior Civil Judge-cum-IV Additional Metropolitan Magistrate at Vijayawada filed under Section 311 Cr.P.C. to recall P.W.1 for the purpose of cross-examination with regard to the original promissory note marked as Ex.A.1 in the suit. The trial Court dismissed the petition after hearing both parties by giving reasons. This petition is filed stating that it is necessary to cross-examine P.W.1 on calling for production of the original promissory note marked as Ex.A.1 in the suit.

2. Heard learned counsel for the petitioner and Sri.Soor Venkata Sainath, learned Special Assistant Public Prosecutor representing the respondent No.1/State.

3. Since the order passed under Section 311 Cr.P.C., cannot be revised as Section 397(2) Cr.P.C., cannot be challenged under Section 482 Cr.P.C. without showing any gross error or irregularity committed by the trial Court in passing the impugned order. Section 482 Cr.P.C. cannot be used as a tool

of bypass to the prohibition incorporated in Section 397 Cr.P.C.

As such, there is no merit in the petition.

4. In the result, the petition is dismissed.

Pending miscellaneous applications, if any, shall stand closed.

JUSTICE B.S.BHANUMATHI

Date : 11-04-2023

SAB