

THE HON'BLE Ms. JUSTICE B.S.BHANUMATHI

Criminal Petition No.3327 of 2023

ORDER:

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure seeking to quash the order dated 28.10.2022 in Crl.MP.No.6106 of 2022 in C.C. No.600 of 2020 on the file of the Hon'ble VII Special Magistrate, Visakhapatnam.

2. The petitioner herein is the accused in C.C. No.600 of 2020 and filed petition under Section 311 of Code of Criminal Procedure, to recall P.W.1 for further cross examination stating that he suffered from COVID-19 from 01.06.2022 to 17.07.2022, but meanwhile, P.W.1 was examined in cross on 15.06.2022 by his counsel basing on meagre and insufficient brief as adjournment was declined, but very crucial information is to be elicited regarding some documents. Counter was filed by the complainant opposing the petition stating that the document filed along with the petition does not show that the petitioner was effected by Covid-19 as on the date of the cross examination and the petition was filed on vague reasons and to drag on the proceedings and further that the petitioner feared many other creditors who gave him lakhs of rupees and the petitioner left Visakhapatnam. The petition was dismissed holing that P.W.1 was already cross examined at length which runs about 3½ pages for a simple petition complaining bouncing of a cheque

and all related aspects were covered and now it amounts to filing up lacunas if the petition is allowed and causes prejudice to the other side and further that there is no reasonable ground to recall P.W.1. No observation is made about the enclosed document.

3. The contention of the petitioner is that one more opportunity may be given to the petitioner/accused to recall the P.W. 1 for further cross examination. The petitioner enclosed the copy of case status showing day to day proceedings in a case which reads as follows:

Registration Number	JUDGE	Business on Date	Hearing Date	Purpose of hearing
600/2020	SPL MAGISTRATE COURT - VII	27-01-2021	12-03-2021	Summons
600/2020	SPL MAGISTRATE COURT - VII	12-03-2021	03-05-2021	Issue bw/nbw
600/2020	SPL MAGISTRATE COURT - VII	03-05-2021	14-06-2021	Issue bw/nbw
600/2020	SPL MAGISTRATE COURT - VII	14-06-2021	27-07-2021	Issue bw/nbw
600/2020	SPL MAGISTRATE COURT - VII	27-07-2021	16-09-2021	Await reports
600/2020	SPL MAGISTRATE COURT - VII	16-09-2021	16-11-2021	Await reports
600/2020	SPL MAGISTRATE COURT - VII	16-11-2021	03-01-2022	Await reports
600/2020	SPL MAGISTRATE COURT - VII	03-01-2022	16-02-2022	Await reports
600/2020	SPL MAGISTRATE COURT - VII	16-02-2022	17-02-2022	Await reports
600/2020	SPL MAGISTRATE COURT - VII	17-02-2022	25-02-2022	Examination
600/2020	SPL MAGISTRATE COURT - VII	25-02-2022	28-03-2022	Examination
600/2020	SPL MAGISTRATE COURT - VII	28-03-2022	07-04-2022	Examination

600/2020	SPL MAGISTRATE COURT - VII	07-04-2022	20-04-2022	Examination
600/2020	SPL MAGISTRATE COURT - VII	20-04-2022	04-05-2022	For trial
600/2020	SPL MAGISTRATE COURT - VII	04-05-2022	11-05-2022	Evidence
600/2020	SPL MAGISTRATE COURT - VII	11-05-2022	02-06-2022	Cross examination of pet
600/2020	SPL MAGISTRATE COURT - VII	02-06-2022	15-06-2022	Cross examination of pet
600/2020	SPL MAGISTRATE COURT - VII	15-06-2022	23-06-2022	Further evidence
600/2020	SPL MAGISTRATE COURT - VII	23-06-2022	30-06-2022	Further evidence
600/2020	SPL MAGISTRATE COURT - VII	30-06-2022	11-07-2022	Cross examination of pet
600/2020	SPL MAGISTRATE COURT - VII	11-07-2022	18-07-2022	Further evidence
600/2020	SPL MAGISTRATE COURT - VII	18-07-2022	28-07-2022	313 crpc examination
600/2020	SPL MAGISTRATE COURT - VII	28-07-2022	11-08-2022	313 crpc examination
600/2020	SPL MAGISTRATE COURT - VII	11-08-2022	23-08-2022	Defence evidence
600/2020	SPL MAGISTRATE COURT - VII	23-08-2022	30-08-2022	Defence evidence
600/2020	SPL MAGISTRATE COURT - VII	30-08-2022	06-09-2022	Call on
600/2020	SPL MAGISTRATE COURT - VII	06-09-2022	13-09-2022	Further evidence
600/2020	SPL MAGISTRATE COURT - VII	13-09-2022	20-09-2022	Further evidence
600/2020	SPL MAGISTRATE COURT - VII	20-09-2022	27-09-2022	Defence evidence
600/2020	SPL MAGISTRATE COURT - VII	27-09-2022	12-10-2022	Defence evidence
600/2020	SPL MAGISTRATE COURT - VII	12-10-2022	19-10-2022	Defence evidence
600/2020	SPL MAGISTRATE COURT - VII	19-10-2022	21-10-2022	For arguments
600/2020	SPL MAGISTRATE COURT - VII	21-10-2022	28-10-2022	Call with mps

600/2020	SPL MAGISTRATE COURT - VII	28-10-2022	15-11-2022	For arguments
600/2020	SPL MAGISTRATE COURT - VII	15-11-2022	28-11-2022	For arguments
600/2020	SPL MAGISTRATE COURT - VII	28-11-2022	29-11-2022	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	29-11-2022	06-12-2022	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	06-12-2022	13-12-2022	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	13-12-2022	15-12-2022	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	15-12-2022	22-12-2022	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	22-12-2022	26-12-2022	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	26-12-2022	02-01-2023	Cross examination of res
600/2020	SPL MAGISTRATE COURT - VII	02-01-2023	11-01-2023	For arguments
600/2020	SPL MAGISTRATE COURT - VII	11-01-2023	12-01-2023	Judgment
600/2020	SPL MAGISTRATE COURT - VII	12-01-2023	30-01-2023	Judgment
600/2020	SPL MAGISTRATE COURT - VII	30-01-2023	02-02-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	02-02-2023	07-02-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	07-02-2023	15-02-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	15-02-2023	20-02-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	20-02-2023	27-02-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	27-02-2023	28-02-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	28-02-2023	06-03-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	06-03-2023	13-03-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	13-03-2023	20-03-2023	Call with mps

600/2020	SPL MAGISTRATE COURT - VII	20-03-2023	27-03-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	27-03-2023	28-03-2023	Call with mps
600/2020	SPL MAGISTRATE COURT - VII	28-03-2023	29-03-2023	Defence evidence
600/2020	SPL MAGISTRATE COURT - VII	29-03-2023	06-04-2023	Cross examination of res
600/2020	SPL MAGISTRATE COURT - VII	06-04-2023	13-04-2023	Cross examination of res
600/2020	SPL MAGISTRATE COURT - VII	13-04-2023	20-04-2023	Further evidence
600/2020	SPL MAGISTRATE COURT - VII	20-04-2023	21-04-2023	For arguments
600/2020	SPL MAGISTRATE COURT - VII	21-04-2023	28-04-2023	Cross examination of res
600/2020	SPL MAGISTRATE COURT - VII	28-04-2023	03-05-2023	Cross examination of res
600/2020	SPL MAGISTRATE COURT - VII	03-05-2023	12-05-2023	Cross examination of res

3. The above details show how much opportunity has been given to the petitioner, yet having failed to take an opportunity at the earliest point of time after closing cross examination of P.W.1, the petitioner has filed this application at the fag end of the proceedings and the learned Magistrate has given valid reasons for dismissing the petition because the contention is that P.W.1 was cross examined basing on meagre and insufficient brief given by the petitioner. The copy of the document filed with the petition was not filed here. No deficiency in the evidence in cross examination of P.W.1 already recorded is shown, nor any other ground to interfere with the impugned order under Section 482 of Code of Criminal Procedure is made out. Filing of this petition

is just a sheer abuse of process of law. Hence, the present Criminal Petition is dismissed.

Pending miscellaneous petitions, if any, shall stand closed.

B.S.BHANUMATHI, J

Dt.05.05.2023

TJN