

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRIMINAL PETITION No.2434 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. challenging the order dt.03-03-2015 Crl.M.P.No.50 of 2015 in S.C.No.182 of 2013 of the I Additional Sessions Judge, Ongole.

2. The petitioner is accused in the said Sessions Case and is alleged to have committed an offence under Section 302 I.P.C. The prosecution had filed Ex.P-17, a video cassette said to contain the confession statement of petitioner before the Mandal Revenue Officer P.W.8. But Ex.P-17 video cassette was not marked through P.W.8 and was marked only through P.W.12, the Investigating Officer.
3. Petitioner filed Crl.M.P.No.50 of 2015 before the Court below to direct the prosecution agency to display Ex.P-17 in public Court. In the application, it is contended also that there were many editings, corrections and malpractices and the said video graph was tampered and it was not obtained with free will and consent of petitioner. It is further alleged that it was prepared with threat, coercion and undue influence to shield the real culprits.
4. Counter affidavit was filed by the prosecution opposing the said application and they contended that the allegations made by petitioner are not correct.
5. By order dt.03-03-2015, the Court below rejected the said application. It held that the present application is filed when the case is posted for defence arguments, and that a copy of Ex.P-17 was already given to petitioner and therefore there was no

necessity to display Ex.P-17. The Court below further observed that the prosecution case did not rest on Ex.P-17 and it is only a piece of evidence marked on behalf of prosecution.

6. Challenging the same, this petition is filed.
7. The learned counsel for petitioner contended that the copy given to accused allegedly of Ex.P-17 may not be the correct copy and in fact it is the case of petitioner/accused that even Ex.P-17 is tampered one, and mere furnishing of copy of Ex.P-17 in these circumstances would not comply Section 207 Cr.P.C. He also pointed out that Ex.P-17 is one of the important pieces of evidence on the basis of which the prosecution case rests, and the Court below is not correct in stating that the prosecution case does not rest on Ex.P-17.
8. Although the learned Public Prosecutor contended that the copy of Ex.P-17 having been furnished to petitioner, the requirement of Section 207 Cr.P.C. is complied with, having regard to serious allegations made by petitioner that Ex.P-17 is tampered and there were many editing and corrections in it, the request of the petitioner to view Ex.P-17 in the public Court and to record its observations, appears to be justified. Therefore, the Court below is not correct in rejecting the same.
9. Accordingly, this Criminal Petition is allowed, and the order dt.03-03-2015 in CrI.M.P.No.50 of 2015 in S.C.No.182 of 2013 of the I Additional Sessions Judge, Ongole is set aside, and the said CrI.M.P.No.50 of 2015 is allowed. The Court below shall view

Ex.P-17 video cassette in the Court and record its observations thereon and then hear final arguments in the Sessions Case.

10. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 24-04-2015

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