

**IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH**

CRIMINAL PETITION No.13886 of 2014

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Between :

Deevi Vara Prasad S/o.Late Gopala Krishnamacharyulu

... Petitioner/Accused No.2

AND

State, Rep. by its Public Prosecutor,
High Court of Judicature for the State of
Andhra Pradesh, Hyderabad,
Through Station House Officer,
Sattenapalli Town P.S., Guntur District.
and another.

... Respondents

DATE OF JUDGMENT PRONOUNCED: 19.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

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|----|--|--------|
| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. | Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3. | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.13886 of 2014

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ORDER :

This criminal petition is filed by the petitioner/A.2 under Section 482 Cr.P.C seeking to quash the order dated 31.10.2014 passed in Crl.M.P.No.5039 of 2014 in C.C.No.36 of 2012 on the file of the II Additional Judicial First Class Magistrate, Sattenapalli, Guntur District.

2. Heard both sides.

3. No doubt, the Court already exercised its discretion under Section 311 Cr.P.C. for recall of PWs.1 to 4 for further cross-examination by the petitioner herein by order dated 09.10.2014 in Crl.M.P.No.4777 of 2014 and at that stage when the matter is posted to 14.10.2014, the petitioner failed to pay the costs of Rs.1,000/- to PWs.1 to 4 and not attended the Court on that day, the said petition was dismissed. It is there from Crl.M.P.No.5039 of 2014 is filed for recall of PWs.1 to 4 for further cross-examination that is ended in dismissal observing that pursuant to the order in Crl.M.P.No.4777 of 2014 the concession not availed by the petitioner, thereby there are no grounds to allow the petition.

4. It is the submission of the learned counsel for the

respondent No.2 that the lower Court order no way requires interference as this petition is nothing but abuse of process of law without availing the concession provided.

5. However, the fact remains once the Court felt that the cross-examination of PWs.1 to 4 is necessary by the petitioner and afforded an opportunity within the scope of Section 311 Cr.P.C., merely because the costs not paid at that day and no representation in stead of shunning the opportunity, interests of justice would be sub-served by imposing further costs and as had it been it could be lessened and life of the litigation for the past ten months after dismissal of the petition dated 31.10.2014.

6. Having regard to the above, this petition is allowed directing the petitioner/A.2 to deposit of Rs.4,000/- before the lower Court within a week from today and submit the order copy before the lower Court for recall of PWs.1 to 4 for further cross-examination by the petitioner pursuant to the earlier order in CrI.M.P.No.4777 of 2014 and on the same day of their presence must complete the cross-examination, without any further right of postponement of cross-examination and thereupon the costs in deposit to be paid to the complaint and witnesses PWs.1 to 4. Failing which, the impugned order of the lower Court holds good and the amount of Rs.4,000/- to be deposited shall be remitted to the Legal Services Authority. Needless to

say, the petitioner/A.2 is entitled to confront any of the documents with him while cross-examining PWs.1 to 4 by filing memo, if at all admitted that can be exhibited, if not admitted that can be placed as part of record by the learned Magistrate so as to make use by the accused in defence evidence to exhibit subject to objection if any on admissibility and relevancy to decide ultimately vide **Bipin Santhilal Panchal v. State of Gujarat**^[1].

7. Miscellaneous petitions pending, if any, shall stand dismissed.

Dr. B. SIVA SANKARA RAO, J

19th August 2015.

Note:

Issue C.C. by tomorrow.

(b/o)
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^[1] AIR 2001 SC 1158.