

THE HON'BLE SRI JUSTICE RAJA ELANGO

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CRIMINAL REVISION CASE No.2535 OF 2015

ORDER:

This Criminal Revision Case is filed by the petitioner, challenging the order, dated 09.10.2015 passed in CrI.M.P. No.300 of 2013 in C.C. No.21 of 2007 by the Special Judge for SPE & ACB Cases, Nellore.

Heard and perused the material available on record.

The petitioner filed the impugned application before the Court below under Section 311 Cr.P.C. to recall PW.37 for the purpose of further cross-examination. The Court below dismissed the said application on the ground that the said application was filed only to procrastinate the matter after closure of the prosecution evidence and that too, when the matter is coming up for arguments. Aggrieved by the said order, the present revision is filed.

Learned counsel for the petitioner submitted that because of the failure on the part of the counsel for the petitioner before the Court below, who failed to put the question to PW.37, the petitioner should not be allowed to suffer and he may be given one more opportunity to cross-examine the said witness only to the extent of the questions mentioned in the application filed before the Court below.

After hearing the arguments of the learned counsel for both sides and after perusing the entire record, this Court is of the view that the order passed by the Court below is in accordance with law. But, taking into consideration the submissions made by the learned counsel for the petitioner that he will confine his cross-examination only to the extent of the questions (a) to (e), mentioned in the application filed before the Court below, this Court is inclined to give one more opportunity to the petitioner.

Accordingly, the petitioner is directed to file a fresh application before the

Court below seeking to recall PW.37 for further cross-examination on the same questions that were mentioned in the earlier application, and on filing of such application, the Court below is directed to fix a date for cross examination of the witness. The petitioner is directed to pay costs to the said witness. The witness shall appear on the date so fixed by the Court below and the petitioner is directed to cross-examine the said witness only to the extent of the questions mentioned in the application filed by him. If the petitioner fails to cross-examine the said witness on the date so fixed by the Court below, the Court below is at liberty to proceed in accordance with law.

With the above directions, the Criminal Revision Case is disposed of. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

November 03, 2015

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