

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12298 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. to quash the order dated 07.09.2015 passed in CrI.M.P.No.2304 of 2015 in C.C.No.318 of 2012 on the file of the IV Additional Judicial First Class Magistrate, Kakinada.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor representing the State.

3. A perusal of the record reveals that the petitioners are facing trial in C.C.No.318 of 2012 on the file of the IV Additional Judicial First Class Magistrate, Kakinada for the offence punishable under Section 392 I.P.C. PWs.1 to 3 were examined in chief on 24.11.2014, 20.01.2015 and 18.03.2015 respectively. For one reason or other, the petitioners' counsel did not cross-examine PWs.1 to 3. The petitioners herein filed CrI.M.P.No.2304 of 2015 in C.C.No.318 of 2012 to recall PWs.1 to 3 for cross-examination. After hearing both parties, the trial Court dismissed the petition. Feeling aggrieved by the order of the trial Court, the present petition is filed.

4. For one reason or other, the petitioners' counsel did not choose to cross-examine PWs.1 to 3. The trial Court dismissed the petition on the sole ground that the petitioners filed CrI.M.P.No.2304 of 2015 in C.C.No.318 of 2012 with an intention to drag on the proceedings. The very purpose of cross-examination of the witness is to ascertain the true facts of the case. If the petitioners are not allowed to cross-examine PWs.1 to 3, it may not be possible for them to establish the defence set up by them. Even if the petitioners are permitted to cross-examine PWs.1 to 3, no prejudice will be caused to the prosecution. While deciding the petitions of this nature, the approach of the Court shall be pragmatic and not pedantic. In criminal cases, the Court has to protect the interest of the accused.

5. Having regard to the facts and circumstances of the case,

I am of the considered view that it is a fit case to permit the petitioners to cross-examine PWs.1 to 3. The petitioners are hereby directed to cross-examine PWs.1 to 3 on the same day fixed by the trial Court. There are grounds much less valid

grounds to set aside the order dated 07.09.2015 passed in Crl.M.P.No.2304 of 2015 in C.C.No.318 of 2012 on the file of the IV Additional Judicial First Class Magistrate, Kakinada.

6. In the result, the Criminal Petition is allowed.

7. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 24.11.2015

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