

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

FRIDAY, THE TWELFTH DAY OF JUNE
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.4699 of 2015

Between:

Jupaka Mohan

..... PETITIONER

AND

The State of Telangana, rep.by its

Public Prosecutor and another

.....RESPONDENTS

The Court made the following:

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.4699 of 2015

ORDER:

The criminal petition is filed against the order dated 21.04.2015 in

Crl.M.P.No.224/2015 in S.C.No.41/2014 on the file of the I Additional District Judge, Warangal, by and under which, the petition filed under Section 311 Cr.P.C. to recall PWs 1 to 10 for cross examination was dismissed.

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor, representing the State.

The learned counsel appearing for the petitioner submits that when the witnesses are being examined, the counsel appearing for the petitioner/accused was not available and hence he could not cross examine the prosecution witnesses, and the Court below erroneously closed prosecution evidence. The learned counsel further submits that as serious allegations are levelled against the petitioner/accused, if the prosecution witnesses are not cross examined, serious prejudice would be caused to the petitioner.

The allegations levelled against the petitioner are for the offences punishable under sections 452, 376(2) (i) r/w.511 IPC and under section 7 r/w.Sec.8 of POCSO Act, 2012. The criminal jurisprudence requires sufficient opportunity to be afforded to the accused to put forth his defence and to cross examine the prosecution witnesses. In the present matter, trial was commenced and on the date fixed for cross examination of prosecution witnesses, there was no representation for the petitioner/accused, cross examination was not done. The learned Sessions Judge dismissed the application filed by the petitioner/accused under Section 311 having found that there are no merits.

In view of the facts and circumstances of the case and in view of the nature of offence, I feel that the petitioner/accused be given opportunity to cross examine the prosecution witnesses i.e. PWs 1 to 10, however, subject to following conditions;

- i. The petitioner/accused shall complete the cross examination of prosecution witnesses i.e. PWs 1 to 10 on the same day when they are produced, without seeking any further adjournment;
- ii. The petitioner/accused shall pay costs of Rs.1,000/- to each of the prosecution witnesses on date of their cross examination.

Subject to the above, the Criminal Petition is allowed.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 12.06.2015

Dsr