

*** THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO**

+ Cr.P. No.1823 of 2015

%23.03.2015

Between:

1. Dovari Venkataraman and others
Petitioners

....

AND

State of A.P. rep. by P.P.

....

Respondent

! Counsel for petitioners : Sri K.Suresh Reddy

^ Counsel for Respondent : Public Prosecutor

< Gist:

> Head Note:

? Cases referred:

1. 1998 Cri.L.J. 1333

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.1823 of 2015

ORDER:

Petitioners/accused who are facing trial for the charges under Sections 147, 148, 302, 307 r/w 149 IPC having failed to convince the trial Court to make a local inspection under Section 310 Cr.P.C., filed the instant Criminal Petition to set aside the impugned order dated 16.02.2015 in CrI.M.P.No.374 of 2014 in S.C.No.64 of 2010 and direct the learned Special Sessions Judge-cum-X Additional District and Sessions Judge, Krishna at Machilipatnam to make a local inspection of the scene of offence in S.C.No.64 of 2010.

2) Heard.

3) The submission of learned counsel for petitioners is that the scene of offence set up by the prosecution and spoken by PWs.1 and 2 are quite different locations and therefore, for proper appreciation of evidence placed by the prosecution and to note the vital discrepancies in the evidence of prosecution witnesses, it is imperative in the interest of justice for the trial Court to make a local inspection but the trial Court erroneously dismissed the application filed by the petitioners.

4) Oppugning the petition, learned Assistant Public Prosecutor argued that local inspection cannot be made by the Court for mere asking by either party and it is purely discretion of the trial Court to make a local inspection when in its considered opinion such a local inspection is necessary for proper

appreciation of evidence on record. When the trial Court does not feel such necessity, the parties cannot compel the Court to make an inspection as it is not within their right to seek for such inspection. He thus prayed to dismiss the petition.

5) In view of above rival arguments, the point for determination is:

“Whether there are merits in this petition to allow?”

6) **POINT:** The petitioners as stated supra, are facing trial for the offences under Sections 302, 307, 147, 148 r/w 149 IPC and the prosecution evidence was completed and on defence side also evidence was produced and D.Ws.1 and 2 were examined and at this stage, it appears, the petitioners/accused filed the petition seeking trial Court to make a local inspection of scene of offence. It refused to concede the request on the ground that defence can project discrepancies if any in the scene of offence as shown in the charge sheet and as spoken by the witnesses by narrating the evidence to the Court and accordingly dismissed the petition.

7) Section 310 Cr.P.C. deals with local inspection. It reads thus:

"310. Local Inspection. -(1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceedings, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given in such inquiry of trial, and shall without unnecessary delay record a

memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnished to him free of cost."

A perusal of above section shows that it contains three important aspects.

- (i) that it must be necessary to appreciate the evidence given;
- (ii) that due notice of inspection should be given to the parties;
- (iii) that a memorandum of facts observed should be recorded without unnecessary delay.

So, predominantly the purpose for local inspection by the trial Court is to properly appreciate the evidence given in the case. In other words, before embarking upon the local inspection either *suo motu* or on the application of the parties, the trial Court must be convinced itself that such a local inspection of the scene of offence is necessary to appreciate the evidence properly. When the Court did not feel such necessity, neither the parties nor the higher courts can either commend or command the trial Court to invariably conduct a local inspection. That is not the purport of Section 310 Cr.P.C. My view is fortified from the decision rendered by Honourable High Court of Bombay in the case of ***The State of Maharashtra v. Dayanand***

Tukaram Raut and others^[1] wherein it was held thus:

"9. In my view the aforesaid provision cannot be invoked when the Court

has not felt the necessity or desirability of having such local inspection which can be done only for the purpose of appreciating the evidence given before the Court. There is no duty cast on the Court to have local inspection simply because the prosecuting agency or one of the parties to the litigation makes an application to the Court and, therefore, there is no question of directing the lower Court to have local inspection in respect of the property which is the subject-matter of the criminal trial. This is not to say that the trial Court should have no local inspection as and when it is felt necessary or desirable by the Court itself."

So, In view of this precedential jurisprudence on the matter in issue the order of the trial Court refusing to make a local inspection cannot be found fault with.

8) Accordingly, this Criminal Petition is dismissed.

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

U.DURGA PRASAD RAO, J

Date: 23-03-2015

Note: L.R. copy to be marked: Yes / No

Murthy

[\[1\]](#) 1998 Cr.L.J. 1333