

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.832 of 2015

ORDER:

Petitioner herein challenges the order dated 30.01.2015 in CrI.M.P.No.39 of 2015 in C.C.No.5 of 2014 on the file of Special Judge for trial of ACB Cases, Rayalaseema Region, Kurnool whereunder the learned Special Judge dismissed the petition filed by AO under Section 311 Cr.P.C. to reopen the case and summon two staff members working in the office of AO to be examined on his behalf.

2) Heard and perused the petition.

3) The submission of learned counsel for the petitioner is that two proposed witnesses (1) Smt. Venkatalaxmi—Revenue Inspector-I and (2) Hussain Peera—Revenue Inspector-II were the colleagues of AO working with him and in fact on the date of trap i.e. 25.02.2013 they were present in the office along with AO and they have witnessed the entry of PW1, his conversation with AO and therefore, their evidence is very much crucial for AO to prove his defence that PW1 availed loan from him and discharged it on the date of trap and therefore to depose this fact those two witnesses may be ordered to be summoned and examined.

4) Learned Special Public Prosecutor opposed the petition stating that the order of trial Court is self-explanatory and in fact sufficient opportunity was given to the AO for

adducing his evidence but he did not avail the same and therefore he does not deserve any concession.

5) It is seen that accused is facing charges under Sections 7 and 13(1)(d) of Prevention of Corruption Act 1988 (for short "PC Act") for allegedly soliciting bribe from PW1. His defence is that PW1 took loan from him and discharged that amount on the date of trap and he never received any illegal gratification. That being so, having regard to the gravity of the charge and presumption under Section 20 of PC Act, the accused needs to dispel the presumption by adducing cogent evidence on his behalf. Therefore, in the interest of justice and fair trial an opportunity has to be given to him.

6) In the result, this Criminal Petition No.832 of 2015 is allowed and impugned order dated 30.01.2015 in CrI.M.P.No.39 of 2015 in C.C.No.5 of 2014 on the file of Special Judge for trial of ACB Cases, Rayalaseema Region, Kurnool is set aside and trial Court is directed to issue summons to two witnesses viz. Venkatalaxmi and Hussain Peera to be examined on behalf of AO as witnesses and complete their evidence on one single day by fixing the date of their examination.

As a sequel, Miscellaneous Petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 06.02.2015

Note: Office to issue CC today itself.

(b/o)

Murthy