

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
CRIMINAL PETITION No.5485 OF 2015

ORDER:

This Criminal Petition is filed by the petitioners/accused under Section 482 Cr.P.C seeking to quash the order dated 20.04.2015 in CrI.M.P.No.3299 of 2014 in C.C.No.86 of 2012 on the file of XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad, registered for the offences punishable under Sections 498-A and 406 I.P.C and Sections 4 and 6 of the Dowry Prohibition Act.

Heard the learned counsel for the petitioners and the learned Public Prosecutor appearing for the State/ respondent.

CrI.M.P.No.3299 of 2014 is filed in the above said C.C. to recall PW.1 for further cross examination. P.W.1 was cross examined in part on 17.07.2013 and having taken time the matter was posted to 27.01.2014, despite the petitioners/accused attended the Court by saying counsel sustained fracture and could not attend to cross examine and the learned Magistrate closed the cross examination by treating nil, saying PW.1, the victim and accused having present, he is not prepared to cross examine and not even filed any application under Section 317 Cr.P.C. for adjournment of matter for cross examination mentioning that the counsel sustained any

injury. No doubt, even later no such certificate appears to be filed. However, the fact remains that in the petition there is a specific averment, that is not disputed by PW.1 from the order much less by the learned Additional Public Prosecutor. Thus, the trial Court could have been allowed the same by imposing some terms as costs to PW.1.

Having regard to the same, instead of negating the fair opportunity of cross examination of PW.1 since not completed, this criminal petition is allowed subject to the following conditions:

The petitioners are directed to appear before the trial Court on 07.07.2015 (on which date the matter is posted) and deposit Rs.2,000/- towards costs payable to PW.1. In such an event, the trial Court issue summons through police to secure PW.1 for further cross examination. On the date of completion of cross examination, the said costs to be kept in deposit to be paid to her. If the petitioners failed to comply the said order before the trial Court on 07.07.2015 by deposit of Rs.2,000/-, they are not entitled to the concession of this order but for it tantamounts to confirmation of order of the trial Court.

Accordingly, this criminal petition is allowed.

Miscellaneous petitions pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 29-06-2015

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