

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2727 of 2015

ORDER:

This criminal Revision Case is filed by the petitioners, under Sections 397 and 401 of Criminal Procedure Code, against order dated 23.10.2015 passed in CrI.M.P. No.47 of 2015 in S.C. No.98 of 2013 by the II Additional Sessions Judge Parvatipuram.

Heard and perused the material available on record.

Petitioners are Accused Nos.1 to 3 in the Sessions Case. The petitioners and other accused filed CrI.M.P. No.47 of 2015 under Section 311 Cr.P.C., before the Court below to recall the PWs.1, 2 and 5. The Court below, after elaborate discussion, dismissed the said application by observing as follows:

“Further, as discussed above, not even a single reason is assigned in the petition for recalling P.W.5 and as stated above, in fact, it appears that this petition is drafted to recall P.Ws.1 and 2, but lateron, as an after thought, the numerical ‘5’ is written in ink, however, a perusal of the evidence of P.W.5 also shows he was declared hostile and he was cross-examined by the learned Addl.P.P and he was cross-examined by the learned counsel for the accused, at length, in detail. Thus, there is no need to recall P.Ws 1, 2 and 5 and the petitioners failed to assign any valid reason to recall them. I don’t find any merits in the petition and the petition is liable for dismissal. Accordingly, the point is answered.”

Aggrieved by the above order, this revision case is filed.

Learned counsel for the petitioner submitted that during the cross-examination of the above said witnesses, specific overt acts were attributed against the petitioners herein, which were not there in the FIR, therefore, it is necessary to recall the said witnesses to cross-examine them on some aspects.

After hearing the arguments of the learned counsel for the petitioners and after perusing the material available on record, this Court is of the view that the order passed by the Court below is in accordance with law and there is no need to

interfere with the same at this stage. However, if the petitioners, after completion of the prosecution evidence, are so desirous to file an application invoking provisions under Section 233 Cr.P.C., for cross-examination of the witnesses already examined and if any such application is filed by them, the trial Court shall consider the same and pass appropriate orders in accordance with law.

With the above observations, the Criminal Revision Case is disposed of. Miscellaneous Petitions, if any pending, shall stand closed.

RAJA ELANGO, J

November 16, 2015.

KTL