

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO
CRIMINAL PETITION No.4942 of 2015

ORDER :

This Criminal Petition is filed by Petitioner/Accused under Section 482 Cr.P.C seeking to set aside the docket order dated 07.05.2015 in C.C. No.36 of 2008 on the file of Special Judge for SPE and ACB Cases at Vijayawada, Krishna District.

2) The docket order dated 07.05.2015, which was impugned at present is pertaining to filing of list of defence witnesses and the trial Court after hearing both sides held that the examination of D.W-1 is not relevant and the legal aspect on sanction can be dealt with at the time of arguments. Impugning the said order, the criminal petition is filed.

3) The background of the case in brief is that basing on the complaint by the defacto-complainant alleging the petitioner demanded bribe for recommending for supply of Gavanchas to the temple and to do official favour, the petitioner was trapped and allegedly shown as accused in C.C. No.36 of 2008 on the file of the learned Special Judge for SPE and ACB Cases at Vijayawada. During the pendency of the lis, the petitioner filed a memo dated 21.04.2015 before the trial Court stating the list of about four defence witnesses on behalf of the petitioner seeking to examine. Of whom the 1st witness was the Superintendent of Central Stores at the relevant point of time to disprove the strife raised by the prosecution.

4) Heard the learned counsel for the petitioner and the 1st respondent, represented by Special public prosecutor for A.C.B

Cases, before admission and perused the material on record.

5) Learned counsel for the petitioner submits that to disprove the contention of the prosecution, D.W-1's evidence is very essential since he was the Superintendent of Central Stores at the relevant point of time and he is the competent person to reveal the nature of duties and identification of signature and in view of the same, the petitioner filed a memo dated 21.04.2015 before the trial Court stating the list of witnesses on behalf of the petitioner and without considering the said need the trial Court issued summons only to witnesses 2 to 4 and passed the impugned order, not to summon the 1st witness.

6) The main contention of the learned counsel for the petitioner is that the examination of the 1st witness of the list is crucial for the adjudication of the lis and no prejudice will be caused to anyone in issuing summons to said witness and the trial Court failed to give reasonable opportunity to the accused for examination of the relevant and necessary witnesses and prayed to allow the criminal petition.

7) After hearing both sides, this Court feels that though opportunity provided by the trial Court to the accused, for the examination of the other witnesses 2 to 4 of the list for negating to examine 1st witness of the list is not just and for no reasons even assigned. The trial Court simply passed the impugned order, without considering the purpose for examination, in saying said witness (loosely referred as D.W-1) is not a relevant witness on the legal aspect of sanction, instead to permit for the relevancy.

8) Having regard to the above, the petition is allowed and the docket order dated 07.05.2015 in C.C.No.36 of 2008 is set

aside and the trial Court is hereby directed to cause examine the 1st defence witness also by summoning him along with other defence witnesses 2 to 4. As a sequel, miscellaneous petitions pending, if any, in the above criminal petitions shall stand closed.

Dr. B. SIVA SANKARA RAO, J

17.07.2015

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