

THE HON'BLE SRI JUSTICE RAJA ELANGO

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CRIMINAL REVISION CASE No.2041 OF 2015

ORDER:

The petitioner/*de facto* complainant has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.,) being aggrieved by the order, dated 20.07.2015, passed in CrI.M.P.No.1771 of 2015 in C.C.No.262 of 2010 on the file of the Additional Judicial Magistrate of First Class, Ramachandrapuram, East Godavari District, whereby the learned trial Judge dismissed the petition filed by the prosecution to recall L.W.5 for the purpose of giving evidence.

Heard and perused the material available on record.

Admittedly, the order impugned is passed in the petition filed by the prosecution to recall L.W.5, who is elder of the village to speak about the facts known to him, through L.W.1. The learned trial Judge dismissed the said petition on the ground that the said petition is filed after lapse of three adjournments and the case is posted for evidence of L.W.9 and also that the evidence of L.W.5 is closed. Aggrieved over the same, the present revision case is filed by the *de facto* complainant and that the prosecution has not filed any revision against the impugned order.

After hearing the arguments and perusing the records, this Court is of the view that since the case is pending for disposal before the Court below, the criminal revision case is disposed of with the following directions.

The petitioner is at liberty to file a fresh application to recall L.W.5 after examination of the investigating officer, if he so desires, and on such application, the Court below is directed to allow the said application on payment of costs of Rs.3,000/- (Rupees three thousand only) payable to the Legal Services Authority, and fix a date for examination of L.W.5.

The Criminal Revision Case is accordingly disposed of. Consequently, the

miscellaneous petitions filed in this revision, if any, shall stand closed.

JUSTICE RAJA ELANGO

05.10.2015

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