

HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.859 of 2015

-

ORDER:

1. This revision is filed by the petitioner-accused against the order dated 19.5.2015 passed by the Special Magistrate-V, Hyderabad, in CrI.M.P.No.447 of 2015 in C.C.No.45 of 2013.

2. The petitioner-accused has been facing trial for the offence under Sections 304-A and 338 IPC. On the date of chief-examination of P.Ws.1 to 3, the Counsel appearing for the petitioner could not reach the Court in time. Hence, the cross-examination of those witnesses was recorded as nil, upon which, the petitioner-accused filed the above CrI.M.P. under Section 311 Cr.P.C. seeking to recall P.Ws.1 to 3 for cross-examination. The learned Magistrate dismissed the said application on ground that the other witnesses were also examined and the evidence of prosecution was closed.

3. Heard and perused the material available on record.

4. Section 311 Cr.P.C. empowers the court to summon a material witness, or to examine a person present at "any stage" of "any enquiry", or "trial", or "any other proceedings" under the Cr.P.C., or to summon any person as a witness, or to recall and re-examine any person who has already been examined if his evidence appears to it, to be essential to the arrival of a just decision of the case. However, the court must satisfy itself, that it was in fact essential to examine such a witness, or to recall him for further examination in order to arrive at a just decision of the case.

5. It is the case of the petitioner that as his counsel could not reach the Court, the cross-examination of P.Ws.1 to 3 was recorded as nil and therefore, he filed the above application.

6. Considering the facts and circumstances of case, this Court is of the view that the right of the petitioner be safeguarded by granting equal opportunity to cross-examine the above witnesses. Moreover, the granting of opportunity to cross-examine P.Ws.1 to 3 may not cause any prejudice to the prosecution. Therefore, one more opportunity be given to the petitioner to cross-examine the witnesses i.e., P.Ws.1 to 3.

7. In the above circumstances, the petitioner is directed to file a fresh application before the learned Magistrate on or before 18.6.2015. On such application being filed, the learned Magistrate shall fix a date on or before 15.7.2015 for cross-examination of P.Ws.1 to 3 and issue summons. The petitioner is also directed to pay Rs.300/- towards charges to each of the witnesses.

8. With the above direction, the Criminal Revision Case is allowed. Miscellaneous petitions pending, if any, shall stand closed.

Justice Raja Elango

Dated: 5.6.2015

Nn

HON'BLE SRI JUSTICE RAJA ELANGO

-

-

-

-

-

-

-

-

-

-

-

-

-

CRIMINAL REVISION CASE No.859 of 2015

-

-

-

-

-

-
-
-
-

5.6.2015

Nn.