

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.12865 of 2015

ORDER:

This petition is filed under Section 482 Cr.P.C. seeking to quash the orders dated 13.10.2015 passed in CrI.M.P.No.509 of 2015 in S.C.No.43 of 2014 on the file of Special Sessions Judge for NDPS Cases (I Additional Sessions Judge), Warangal.

Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State.

A perusal of the record reveals that the petitioners are facing trial in S.C.No.43 of 2014 on the file of the Special Sessions Judge for NDPS Cases (I Additional Sessions Judge), Warangal for the offence punishable under Section 8(c) read with 20 of Narcotic Drugs and Psychotropic Substances Act. A perusal of the record further reveals for one reason or other, the learned defence counsel did not choose to cross-examine P.Ws.1 to 3. The petitioners herein filed CrI.M.P.No.414 of 2015 on 14.07.2015 and the same was allowed. In pursuance of the orders passed in CrI.M.P.No.414 of 2015, P.Ws.1 to 3 appeared before the trial Court on 28.07.2015. But the learned defence counsel did not cross-examine them for the reasons best known to him. A perusal of the record clearly reveals that the trial Court has given a reasonable opportunity to these petitioners for cross-examination of P.Ws. 1 to 3. Again, the petitioners herein filed an application under Section 311 Cr.P.C. to recall P.Ws.1 to 3 vide CrI.M.P.No.509 of 2015 in S.C.No.43 of 2015 for cross-examination. The trial Court after affording reasonable opportunity dismissed the petition by assigning cogent and valid reasons. A perusal of the record clearly reveals latches on the part of the petitioners.

Learned counsel for the petitioners submitted that the petitioners herein have changed their previous counsel. The very purpose of the trial is to give a reasonable opportunity to the accused to putforth his defence. No accused should feel that fair trial was not conducted in his case. The very purpose of the cross-examination is to elicit the truth from the witnesses. If no opportunity was given to the

petitioners/accused Nos.1 and 2, it may not be possible for them to substantiate the defence set up by them. While deciding the petitions of this nature, the approach of the Court should be pragmatic and not pedantic.

Taking into consideration the facts and circumstances of the case and the interest of the petitioners, this Court on sympathetic grounds inclined to allow the petition.

Accordingly, the Criminal Petition is allowed on condition that the petitioners shall pay an amount of Rs.500/-(Rupees five hundred only) to each witness. The petitioners are hereby directed to cross-examine P.Ws.1 to 3 on the same day as fixed by the trial court. For any reason, the petitioners' counsel asks time for cross-examination of P.Ws.1 to 3, the trial Court is at liberty to proceed further in accordance with law. Consequently, Miscellaneous Petitions, if any, pending in this Criminal Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 04.12.2015

Note:

Issue C.C. today.

B/o. Rns