

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.9378 of 2014

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ORDER :

Heard both sides i.e., the petitioner/accused as well as the 2nd respondent-State represented by the Public Prosecutor and perused the material on record.

2. No doubt, the lower Court is to some extent right in saying that petitioner having not chosen to file application under Section 315 Cr.P.C. after 313 Cr.P.C. examination of the accused from closure of complainant's evidence before commencement of arguments and having filed application under Section 311 Cr.P.C., to summon certain witnesses and cause examined only three witnesses on his behalf, the application filed under Section 315 Cr.P.C. at this stage expressing intention of the accused to come to witness box is part of the delayed tactics as contended by the complainant. However, the fact remains within the scope of 315 Cr.P.C., the accused cannot be compelled to come to the witness box, but for on his own request that too in writing to accord permission. When that is the law instead of giving a life to the litigation or admitting and keeping the matter pending, this Court feels to meet the ends of justice to dispose of the application with the following conditions:

- (1) The petitioner shall appear before the trial Court and give evidence within one week from the date of receipt of a copy of this order.
- (2) The copies of documents that are being exhibited through the petitioner shall be supplied to other side and any documents required to be summoned if material to the case can be considered.
- (3) His cross-examination is entitled to be done by the complainant either on the same day or atleast by next day.

(4) If the petitioner fails to attend or come to witness box within one week as stipulated above, he is not entitled to the further concession.

3. Accordingly, the criminal petition is disposed of.

4. Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

17th July 2015.

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