

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition Nos.2298, 2390 and 2396 of 2016

COMMON ORDER:

Since the issue involved in all these three criminal petitions is identical and the parties in all the cases are one and the same, they are being disposed of this common order.

All these criminal petitions are filed under Section 482 Cr.P.C. challenging the order dated 10-02-2016 in CrI.M.P.No.103 of 2016 in C.C.No.100 of 2014, CrI.M.P.No.102 of 2016 in C.C.No.98 of 2014, and CrI.M.P.No.104 of 2016 in C.C.No.99 of 2014 respectively passed by the learned Special Judge for Economic Offences, Hyderabad, dismissing the petitions filed under Section 311 Cr.P.C. seeking to recall PW.1 Ch. Hima Bindu, the then Deputy Commissioner of Income Tax, Circle-9 (1), Hyderabad for further cross-examination.

Heard the learned counsel for the petitioners and perused the record.

Having heard the learned counsel for the petitioners and on perusing the material on record including the orders under challenge, this Court is of the view that the learned Judge has rightly exercised his discretion in dismissing the petitions and the reasons assigned for dismissing them are but just and reasonable and the same do not suffer from any infirmity warranting interference of this Court.

However, at this stage, the learned counsel for the petitioners stated that the petitioners are ready to cross-examine any person, who is in the rank of Deputy Commissioner of Income Tax as that of PW.1-Ch. Hima Bindu, since the evidence is to be

given only based on the record, for which the learned standing counsel appearing for the Income Tax Department stated that one V. J. Naik, who is in-charge of Circle-9 (1) and who is successor of PW.1-Ch. Hima Bindu, is ready to give evidence in the present cases based on the record for relevant particulars in respect of which the cross-examination of PW.1 is sought for. Learned standing counsel further submitted that the said V. J. Naik intends to appear before the Court for giving evidence without there being any summons issued for such purpose.

Considering the facts and circumstances of the case and in order to meet the ends of justice, the trial Court is directed to allow Sri V. J. Naik, who is similar rank of the Deputy Commissioner of Income Tax Circle 9 (1) and who is also successor of PW.1-Ch. Hima Bindu, in the place of PW.1 for the purpose of cross-examination by the petitioners on 22-03-2016 and the said cross-examination shall confine only to the extent of the particulars for which the cross-examination is sought for. The petitioners herein are directed to cross-examine such person on that day without fail and without seeking any further adjournment and the learned Judge shall not grant any further adjournment in that regard. After completion of the said cross-examination, the learned Judge shall decide the cases in accordance with law.

Subject to the above observations, the criminal petitions are disposed of accordingly. As a sequel thereto, miscellaneous petitions, if any, pending in these criminal petitions, shall stand closed.

RAJA ELANGO, J

Date: 10-03-2016

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