

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.15411 OF 2016

ORDER:

This criminal petition is filed under Section 482 of Cr.P.C to quash the proceedings in CrI.M.P.No.441 of 2016 in Sessions Case No.97 of 2010 dated 02.09.2016 on the file of the Sessions Judge, Mahila Court, Vijayawada, whereby, the Trial Court dismissed the petition filed under Section 311 of Cr.P.C by A-3 to recall P.Ws.10, 20, 40, 41, 55 & 67 for further cross-examination to confront certain documents which he collected subsequent to cross-examination of the witnesses.

It is also brought to the notice of this Court during argument that, on application of the petitioners, those documents were summoned and they are in the custody of the Court and they are required to be confronted to the witnesses referred supra. But the Trial Court dismissed the petition on the sole ground that the trial is being delayed.

The respondent filed a detailed counter disputing the right of the petitioners to recall the witnesses to confront the document.

During hearing, learned counsel for the petitioner brought to the notice of this Court that the petitioner is in judicial custody since 08.02.2010 and he had no intention to protract the matter for some more time.

In any view of the matter, the documents which are summoned through Court, the purpose of summoning the documents through

Court is to confront those documents and the Trial Court having summoned those documents ought not to have denied the opportunity to confront the documents and denying the same, amounts to denial of fair trial and therefore, I find that it is a fit case to set-aside the order passed by the Trial Court, directing the Trial Court to recall the witnesses P.Ws.10, 20, 40, 41, 55 & 67 for further cross-examination for limited purpose by confronting the documents in Crl.M.P.No.441 of 2016 in S.C.No.27 of 2010, fixing a specific date for cross-examination of those witnesses and in the event of failure to cross-examine the witnesses confronting those documents, the Trial Court is permitted to close the evidence. The petitioner is also directed to bear the costs i.e. T.A. & D.A for summoning the witnesses.

With the above direction, the criminal petition is allowed.

Consequently, miscellaneous petitions pending, if any, shall also stand closed. No costs.

JUSTICE M. SATYANARAYANA MURTHY

Date:28.10.2016
SP