

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

CRIMINAL REVISION CASE No. 426 of 2016

ORDER:

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Aggrieved by the order dated 19.01.2016 passed in CrI.M.P. No.79 of 2016 in C.C. No.13 of 2009 on the file of the Principal Special Judge for C.B.I. Cases, Hyderabad, wherein and wehreunder an application filed to recall P.Ws.1, 6, 33, 35 and 36 was rejected, the present Revision is filed by the petitioners/A-5 and A-6.

The petitioners herein along with four others were tried in C.C. No.13 of 2009 for the offences punishable under Sections 120(B), 419, 420, 468 and 471 IPC and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act. After completion of 313 Cr.P.C., examination and before the examination of D.W.1, the petitioners herein filed an application to recall of P.Ws.1, 6, 33, 35 and 36. The main ground urged by the learned counsel for the petitioners in the petition filed for recalling of these witnesses is that the counsel had reported "Nil" cross examination for these witnesses. It is further urged that on some of the dates of hearing the counsel was unwell and that the petitioners were not in a position to instruct their Advocate as to the conducting of cross-examination of some of the witnesses. Not being satisfied with the cross examination made by their counsel, the petitioners filed CrI.M.P. No.79 of 2016 requesting the trial court to recall P.Ws.1, 6, 33, 35 and 36 for further cross examination on some crucial aspects, but the same was rejected. Aggrieved by the same, the present Revision came to be filed.

A perusal of the material on record would show that earlier the petitioners/A-3 and A-4 filed CrI.R.C.No.3047 of 2015 aggrieved by the orders of the trial court in rejecting their request for recalling of 15 witnesses at the stage of

313 Cr.P.C. examination. By an order dated 10.12.2015 this court with a view to give one more opportunity to the accused therein permitted to cross examine P.Ws.24 and 34 on certain terms and conditions. It is represented by the learned Standing Counsel for C.B.I., that the witnesses who are now sought to be recalled were also sought to be recalled and cross-examined in the earlier application, but the Court restricted the request only for two witnesses. Apart from that it is to be noted that P.W.1 was examined on 28.12.2012, P.W.6 was examined on 14.02.2013, P.W.3 was examined on 25.02.2014 and P.W.35 was examined on 02.05.2014. Immediately, after their chief and cross no steps were taken by these accused to recall them for further cross-examination. It is now urged that certain new facts came to light through D.W.1 and hence they want to recall the above mentioned witnesses. But, it is to be noted that D.W.1's evidence was recorded on 18.02.2016 and the present application under Section 311 Cr.P.C., was made much prior to the date of recording the evidence of D.W.1. Hence, the reason given for filing the application appears to be incorrect. Further, it is to be noted that the arguments in the said case have already commenced and the prosecution represented by its standing counsel for C.B.I. has already completed its arguments. It is also brought to the notice of the Court that the Counsel for A-1 and A-2 have also advanced their arguments. That being the position it cannot be proper to recall the witnesses as sought for by the petitioners. Hence, I see no ground to accept the request of the petitioner. However, it is always open to the petitioner to advance arguments basing on the material on record and the trial Court shall take into consideration all the aspects, uninfluenced by any observation made in this order.

Accordingly, the Criminal Revision Case is dismissed. As a sequel to it, miscellaneous petitions pending if any, in this Revision shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Date: 10.03.2016

Note:: C.C. by tomorrow
B/o.GM