

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2940 OF 2015

ORDER:

The petitioner has preferred the present criminal revision case by invoking the provisions under Sections 397 and 401 of Code of Criminal Procedure (Cr.P.C.) being aggrieved by the order dated 30.10.2015 passed in CrI.M.P.No.836 of 2015 in C.C. No.14 of 2010 by the Court of the Special Judge for SPE and ACB Cases, Visakhapatnam, whereby the learned Judge dismissed the petition filed by the petitioner/A.1 under Section 243(2) of the CrPC to summon the Forest Section Officer, Office of the Forest Range Officer, Near R.K.Beach, Visakhapatnam to produce (1) P3 Register maintained at Thallapalem Forest Check Post of Visakhapatnam Range in the year 2009; (2) Measurement books of Kannurupalem bearing No.1/2008 and Gandipeta bearing No.03/2008 of Kannurupalem beat of Visakhapatnam Range Office and (3) Offence Register of Forest Range Officer, Visakhapatnam pertaining to the years of 2014-2015 and 2015-2016 and to give evidence.

Heard and perused the material available on record.

Learned counsel for the petitioner submits that the Court below erroneously dismissed the petition filed by the petitioner to summon the Forest Section Officer, Office of the Forest Range Officer, Near R.K.Beach, Visakhapatnam to produce (1) P3 Register maintained at Thallapalem Forest Check Post of Visakhapatnam Range in the year 2009; (2) Measurement books of Kannurupalem bearing No.1/2008 and Gandipeta bearing No.03/2008 of Kannurupalem beat of Visakhapatnam Range Office and (3) Offence Register of Forest Range Officer, Visakhapatnam pertaining to the years of 2014-2015 and 2015-2016 and to give evidence. He further submits that the Court below ought to have allowed the petition as the petitioner needs to disprove the statement of P.W.1, who deposed that accused demanded bribe on 21.08.2009 and to prove the fact the petitioner was not in the place of occurrence on the day, when the prosecution alleged that the petitioner demanded bribe.

He further submits that to substantiate the same, the petitioner intends to summon the Forest Section Officer to produce P3 Register maintained at Tallapalem Forest Check Post of Visakhapatnam Forest Range, during the year 2009.

This Court is of the view that the petitioner has taken a stand that he was not in the place of occurrence and he was elsewhere and as such, the said petition can be allowed to establish the contention that on the date of alleged demand of bribe by the petitioner, i.e., 21.08.2009, the petitioner was somewhere else and not in the place as alleged by the prosecution.

In view of the above, the criminal revision case is allowed and the trial Court is directed to summon the Forest Section Officer, Office of the Forest Range Officer, Near R.K.Beach, Visakhapatnam to produce P3 Register maintained at Tallapalem Forest Check Post of Visakhapatnam Range in the year 2009, more particularly the period covers 21.08.2009. The trial Court is further directed to fix a date for appearance of the said witness and the petitioner also to cooperate and examine the said witness on the date so fixed by the trial Court and also to pay a sum of Rs.1,000/- (Rupees one thousand only) as costs to the Forest Section Officer, Office of the Forest Range Officer, Near R.K.Beach, Visakhapatnam, for his appearance.

The Criminal Revision Case is accordingly allowed. Consequently, the miscellaneous petitions pending in this petition, if any, shall stand closed.

JUSTICE RAJA ELANGO

28.01.2016
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