

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.15405 OF 2016

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the order dated 17.10.2016 passed in CrI.M.P.No.485 of 2016 in SC/ST SC No.23 of 2015 by the Special Judge for Trial of Cases under SCs & STs (POA) Act – cum – VI Additional Sessions Judge, Kurnool.

Prosecution filed a petition under Section 311 of Cr.P.C. to recall P.W.5 to clarify whether any permission is required for any student to enter into the Library and to study the books in the Library reading hall itself? But the petition was opposed before the trial Court and the Sessions Judge during trial put a specific question to the Professor of the Medical College, which reads thus:

“Question: Is any permission is required for any student to enter into the library and to study the books in the library reading hall itself?

Ans: No”

When the professor of the college herself categorically stated that no permission is required for any student to enter into the library and to read the books in the library reading hall itself, the recalling of P.W.5 to elicit whether the permission is required or not is nothing but an attempt to drag the proceedings for some more time and when there is sufficient evidence without any ambiguity, the question of recalling P.W.5 does not arise.

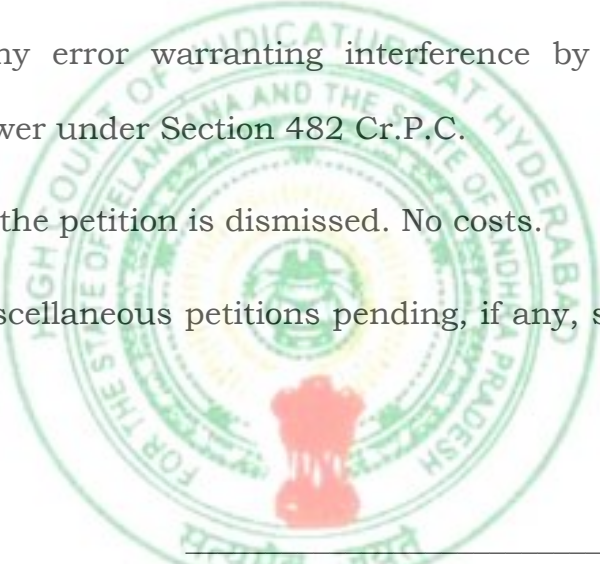
According to Section 311 of Cr.P.C. the Court, at any stage of any inquiry, trial or other proceeding, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person

already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case. Thus, to recall any witness, the Court has to satisfy itself that the evidence is essential to the just decision of the case.

A lacuna in the prosecution ought not to be filled up by recalling P.W.5 at the stage of reply arguments in the main case. Therefore, when there is sufficient material on record with regard to the proposed clarification by recalling P.W.5, there is no need to recall P.W.5 at this stage and that the trial Court has not committed any error warranting interference by this Court by exercising power under Section 482 Cr.P.C.

Hence, the petition is dismissed. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.



JUSTICE M. SATYANARAYANA MURTHY

Date:28.10.2016
Ksp