

HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.8248 of 2016

ORDER:

This Criminal Petition is filed against the order dated 06.01.2016, in CrI.M.P.No.201 of 2015 in C.C.No.11 of 2015 on the file of Principal Junior Civil Judge –cum-Special Court For Land Grabbing Cases, Visakhapatnam, whereunder, petition filed, under Section 311 Cr.P.C, to recall PWs.1 to 11 was dismissed.

Petitioners are accused. They are charged of offences under Sections 332, 323, 506, 342 read with 34 IPC and Sections 3 and 4 of the Land Grabbing Act.

The material available on record shows that PWs.5 and 6 turned hostile, and other witnesses were not cross-examined on the ground of absence of counsel.

The learned counsel appearing for the petitioners submits that the evidence of PWs.1 to 11 is necessary and their evidence is essential to prove the innocence of the petitioners.

The criminal jurisprudence requires sufficient opportunity to be afforded to the accused to put forth his defence. The learned Court below dismissed the application filed by the petitioners - accused under Section 311 Cr.P.C. having found that there are no merits.

In view of the facts and circumstances of the case and in view of the nature of offences, I feel that the petitioners - accused be given an opportunity to recall PWs. subject to following conditions;

- i) PWs. 1 to 4 and 7 to 11 are permitted to recall on condition of deposit of process for issue of summons;
- ii) When the prosecution witnesses are present before the

Court, their cross-examination shall be completed on the same day fixed by the Court below without seeking any further adjournment; and

- iii) The petitioners - accused shall pay costs of Rs.2,000/- (Rupees two thousand only) to each of the prosecution witnesses to meet their expenses as and when they appear before the Court;

The Criminal Petition is accordingly disposed of.

Pending miscellaneous applications, if any, shall stand closed in consequence.

M.S.K.JAISWAL,J

Date: 22.06.2016

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