

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.15685 OF 2016

ORDER:

This criminal petition, under Section 482 Cr.P.C, is filed challenging the docket order dated 20.09.2016 in CrI.M.P. No.903 of 2016 in C.C. No.700 of 2013 passed by the Judicial Magistrate of First Class, Kamareddy, wherein the petition filed for recall of P.W.5 was dismissed on the ground that the matter was posted for examination of accused under Section 313 Cr.P.C. and that the witness was already examined.

According to the petitioners, the matter was likely to be compromised on the date when P.Ws.1 to 3 were examined in chief, but due to failure of compromise talks, they filed recall petition. But before allowing the application for recall of P.Ws.1 to 3, investigation officer entered into the witness box and he was formerly cross-examined, since P.Ws.1 to 3 were not cross-examined by the date of cross-examination of P.W.5. Later the petition filed for recall of P.Ws.1 to 4 was allowed, and they were recalled, cross-examined and thereafter, CrI.M.P. No.903 of 2016 is filed on the ground to put certain questions based on the evidence of P.Ws.1 to 4. But the trial court dismissed the petition, as the matter was posted for examination of the accused under Section 313 Cr.P.C.

But that is not a ground to reject the request of the petitioners since the petitioners herein did not cross-examine P.Ws.1 to 4 before cross-examination of P.W.5 and thereby they are disabled to elicit the facts through cross-examination of P.W.1 to 4. Therefore, affording reasonable opportunity to the

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petitioners, for fair trial, I find that it is a fit case to recall P.W.5 for further cross-examination.

In the result, the criminal petition is allowed while setting aside the order dated 20.09.2016 in CrI.M.P. No.903 of 2016 in C.C. No.700 of 2013 passed by the Judicial Magistrate of First Class, Kamareddy, recalling P.W.5 for further cross-examination on the date fixed by the Court. In case the petitioner failed to come over, the court is at liberty to pass appropriate order.

Miscellaneous petitions, if any, pending in this criminal petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 04.11.2016
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