

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

CRIMINAL PETITION No.12124 of 2016

ORDER :

This Criminal Petition is filed under Section 482 of Cr.P.C. by the petitioners/accused seeking to quash the order dated 03.08.2016, passed by the learned Assistant Sessions Judge, Nandigama, in CrI.M.P.No.125 of 2016 in S.C.No.210 of 2015, refusing to recall PW-1/de facto complainant for further cross-examination.

Heard learned counsel for petitioners/accused and the learned Public Prosecutor and perused the material available on record.

Petitioners herein are the husband and mother-in-law of the de facto complainant, who has been examined as PW-1 in the Sessions Case, and thereafter, rest of the witnesses are examined. Subsequently, when substantial part of the evidence was concluded, the petitioners/accused have filed a petition under Section 311 of Cr.P.C. to recall PW-1 for further cross-examination on the ground that there are three material aspects to be elicited from her. The learned Assistant Sessions Judge did not pass appropriate orders in the said petition, but proceeded to examine the accused under Section 313 Cr.P.C., and thereafter dismissed the petition on 03.08.2016.

Learned counsel for petitioners submit that the three points to be elicited from PW-1 are material facts, as the petitioners are facing charges under Sections 307 and 498-A of IPC, and in that view of the matter, an opportunity may be given

to the petitioners to further cross-examine PW-1.

Having heard learned counsel for petitioners, this Court is of the view that the petition may be allowed on the following terms :

- (i) Petitioners/accused shall deposit process fee for issuing summons to PW-1, within a period of ten days from today.
- (ii) Petitioners/accused shall pay costs of Rs.3,000/- (Rupees three thousand) to PW-1 on each date of her appearance.
- (iii) PW-1 should be examined on the date when she is present/produced and the petitioners should not ask for adjournments.
- (iv) The entire process should be completed within one month from today.

Subject to above conditions, the criminal petition is allowed.

Pending miscellaneous applications, if any, shall stand closed.

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M.S.K.JAISWAL, J

19th August 2016

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N.B :

Issue C.C. today.

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ajr