

THE HONOURABLE SRI JUSTICE RAJA ELANGO

Crl.R.C.No.193 of 2016

ORDER

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The present criminal revision case is directed against the docket order dated 30.12.2015 passed in C.C.No.21 of 2007 by the learned Special Judge for SPE & ACB Cases, Nellore.

2. Heard and perused the material on record.

3. The petitioner/accused is involved in C.C.No.21 of 2007 on the file of Special Judge for SPE and ACB Cases, Nellore, registered for the offences punishable under Section 13(2) read with Section 13(1)(e) of Prevention of Corruption Act, 1988 and under Section 120(B), 201 read with Section 109 IPC, Section 464 read with 465 IPC and under Sections 468 and 471 IPC. During the course of trial, the petitioner/accused filed an application seeking to recall P.W.37 for further cross-examination and the same was dismissed by the trial Court. On revision, this Court directed the petitioner to file a fresh application before the trial Court seeking to recall P.W.37 for further cross-examination. Accordingly, the petitioner filed the said application and the trial Court fixed the date of examination of P.W.37 on 30.12.2015, on which date, as the defence counsel was not present, the trial Court treated further cross-examination as 'nil'. Aggrieved by the same, the petitioner filed the present revision.

4. Learned counsel for the petitioner submits that on 30.12.2015, the accused and the witness were present, but due to

boycott of the Courts on that day, the counsel was not present and the petitioner could not cross-examine the witness and that though the petitioner filed a petition for adjournment of the case, the same was dismissed. Thus, he prays to give an opportunity to the petitioner for further cross-examination of P.W.37.

5. It is stated that due to absence of the counsel because of boycott of the Courts on 30.12.2015, the petitioner was unable to cross-examine the witness. Failure on the part of the counsel, he should not be suffered. Considering the facts and circumstances of the case and in view of the nature of offence, this Court is of the view that an opportunity should be given to the petitioner to cross-examine the witness. Since the case is adjourned to 03.02.2016, the trial Court is directed to cross-examine P.W.37 further, if he is present, or otherwise, the petitioner is directed to file an application to recall the said witness and on filing such an application, the trial Court shall fix a date for further cross-examination of P.W.37 and if the petitioner fails to cross-examine the said witness, the trial Court is at liberty to proceed in accordance with law. The petitioner shall pay costs of Rs.1,500/- (Rupees one thousand five hundred only) to the witness on the date of examination.

6. With the above direction, the Criminal Revision Case is disposed of.

Miscellaneous Petitions, if any, pending in this revision shall stand closed.

JUSTICE RAJA ELANGO

21st January, 2016
sj