

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.6921 2017

ORDER:

Heard learned counsel for the petitioners/accused Nos.1 to 3 of CrI.A.No.414 of 2014 pending on the file of XIII Additional District Judge, Narsaraopet, against the acquittal judgment of the trial Court in C.C.No.54 of 2008 on the file of I Additional Judicial Magistrate of First Class, Narasaraopet dated 22.07.2014 for the offence under Sections 420 & 506 IPC and it is pending the appeal, the appellant/defacto complainant (2nd respondent herein) filed CrI.M.P.No.202 of 2016 under Section 391 Cr.P.C. to receive additional evidence and the same was allowed by the impugned order on 05.06.2017. It is impugning the same, present criminal petition is filed.

The very wording under Section 391 Cr.P.C. is crystal clear that where it is necessary for just decision of the case by assigning reasons the appellate Court may receive additional evidence. For that in fact any disposal of the case such evidence is necessary or not can easily be considered. It is premature for taking such decision.

In view of the above, the Criminal Petition is disposed of by setting aside the impugned order and restoring the petition to the lower appellate court to decide with the appeal. Needless to say it is within its power if at all any retrial is required on receiving of such additional evidence. Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 24.08.2017
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