

HON' BLE DR JUSTICE SHAMEEM AKTHER

CrI.P. No. 6344 of 2017

ORDER:-

Heard Sri K. Nagesh Naik, learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent – State and perused the material on record.

It is stated that the petitioner – accused did not cross-examine the witnesses i.e. PWs.1 and 2 who were examined on 06.11.2015 and 25.11.2015 respectively. The trial Court, though gave ample opportunity to the petitioner to cross-examine those witnesses, as per the record, till date all other witnesses in the case are examined except the investigating officer. When CrI.M.P.No. 1049 of 2016 in C.C.No. 37 of 2008 was filed by the petitioner, it was dismissed on 23.09.2016 assigning number of reasons. Against the said order, CrI.R.P.No. 82 of 2016 was filed before the Court of First Additional Sessions Judge, Kurnool and the same was also dismissed on 01.06.2017.

In the circumstances of the case, without the cross-examination of PWs.1 and 2, it is not proper to determine the charges framed against the petitioner-accused for the offence punishable under Section 409 IPC. Admittedly, there are great latches on the part of the petitioner in not

cross-examining PWs.1 and 2, however, in the interest of justice, an opportunity is required to be given to him.

The learned counsel for the petitioner has submitted that a date may be fixed by this Court for the aforesaid purpose.

In view of the facts and circumstances of the case, the recall application of the petitioner is allowed and the petitioner is directed to cross-examine PWs.1 and 2 within a period of 30 days from the date of this order. If the case is posted to a later date, the same may be preponed for this purpose. It is made clear that if the petitioner fails to cross-examine PWs.1 and 2 within the aforesaid stipulated time, his right to cross-examine PWs.1 and 2 stands forfeited.

Accordingly, the Criminal Petition is ordered.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

DR JUSTICE SHAMEEM AKTHER, J

28.07.2017

Note:-

The Registry is directed to send copy of this order by fax in addition to the regular mode.

Furnish copy in two days.

b/o

bcj