

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No.8206 of 2017

ORDER:

Heard learned counsel for the petitioner/A.1 in S.C.No.45 of 2014 pending on the file of Special Judge for Trial of Offences under SC & ST (POA) Act-cum-VIII Additional Sessions Judge, Nizamabad, and learned Public Prosecutor representing the State.

This Criminal Petition is filed impugning the dismissal order of the CrI.M.P.No.107 of 2017 filed by the petitioner for recall of PWs.1 to 25, vide impugned order dated 23.08.2017. The order speaks that the petitioner sought from the record by filing petition earlier in CrI.M.P.No.193 of 2016 for recall of PWs.2, 6, 10, 20, 24 & 25 saying those witnesses were not put material questions which are important and the said witnesses were permitted for recall and cross-examined and prosecution evidence was closed on 23.03.2017 and having taken time all through till 01.08.2017 when the matter is coming for Section 313 Cr.P.C. examination, filed the petition and a perusal no way shows as rightly contended by the learned Public Prosecutor any bonafides and that accused persons are bent upon dragging on the matter from what is clear of S.I. B.Murali statement by oath that he received warrant against A.17 for execution of NBW and visited the Kothapally Village of Raikal Mandal, he was not there and visited Jangama Village when he came to know he moved that place, but not found. Even came to know he moved for Hyderabad, whereabouts not found and again he visited Raikal for execution of NBW, one elder person i.e., Ganga Reddy, Ex.MPTC informed that the defence counsel Asha Narayana given instructions of not to become available to police to

arrest and produce until the Judge being retired on 30.09.2017 and therefrom A.17 is in abscondence and petitioners are making tactics thereby there are no merits.

A perusal of the above order though this Court want to consider otherwise, apart from no reasons much less of any necessity for the Court to invoke part-II of Section 311 Cr.P.C. as the facts no way justify the recall of any of the witnesses particularly from the fact also that way back in October 2016 in the recall petition covered by CrI.M.P.No.193 of 2016 only sought for recall of PWs.2, 6, 10, 20, 24 & 25 that was allowed and their further examination was completed by March 2017 and these witnesses recall for further examination was not at all asked along with those or atleast before March 2017.

Having regard to the above and in the result, this Criminal Petition is dismissed for no grounds. Needless to say the trial Court if at all for A.17 is in abscondence and cannot be secured immediately, can spilt up the case and proceed against other accused for need not obey to any delay tactics of any accused in the process of justice which must flow free and uninterrupted to sub serve the ends of justice. Needless to say the petitioners be given opportunity to submit any oral arguments and/or written arguments as the case may be by fixing a date for that by virtue of this order, if necessary by reopening the matter for such purpose if already reserved for judgment of what the say of counsel for petitioners.

Consequently, miscellaneous petitions, if any shall stand closed.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 15.09.2017

Note: Issue C.C. by 18.09.2017

(B/o)

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