

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.1031 of 2017

ORDER:

Heard both sides at length.

A perusal of the impugned docket order dated 30.03.2017 which reads as follows "counter not filed. No representation. Heard Public Prosecutor. Petition is allowed" shows outcome of non-application of judicial mind at least what is prayer in the petition and how it could be disposed of if the respondent appearance is there for non-filing of counter and at least to consider the petition averments whether it is under 1st part or 2nd part of Section 311 Cr.P.C. and that too when recall asked without even filing of application to receive the documents earlier even filed with petition for examination of witnesses, those documents with memo were not received by selfsame Court in saying an application is required to be filed and that too the prayer in the petition is to mark documents.

Having regard to the above, the order is set aside and liberty is given to the prosecution or defacto complainant or the witnesses, as the case may be, if at all want to file a receive document petition and the trial Court is directed to receive the document petition and decide the petition afresh. It is made clear that while passing the order the Court shall assign the reasons in allowing the petition and to what extent to allow and which document is relevant by marking subject to admissibility within the scope of Section 136 of the Indian Evidence Act, and if necessary call for the relevant questions in sealed cover to be put to the witnesses to consider and permit only those questions.

With the above observations, the criminal revision case is allowed in part by setting aside the order and by remitting the matter back to the lower Court along with application to receive the documents.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 26.04.2017
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