

THE HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.9588 OF 2017

ORDER:

Heard learned counsel for the petitioners A2 and A18 of S.C.No.742 of 2011, pending on the file of II Additional District and Sessions Judge, Guntur and also heard the learned public prosecutor, representing the State.

2. The impugment herein is for partly allowed the CrI.M.P.No.418 of 2017 by the learned Sessions Judge on 26.09.2017, when the petitioners sought for recall of PWs.1 to 3 and P.W.15 (doctor) and P.W.16 (Investigation Officer).

3. The contention is certain relevant questions not asked in the cross-examination of these five witnesses sought for recall, it was opposed by the public prosecutor on behalf of State saying there is searching and elaborate cross-examination and the area of cross-examination not even mentioned, however, allowed for the recall of PWs.15 and 16 to the extent even considered by the learned public prosecutor saying the post-mortem report also inadvertantly not marked in the evidence of the doctor and to be referred through Investigation Officer. It is the grievance that though PWs.1 to 3 are also supposed to be recalled, they were not considered. What are the questions if at all to be put it in the course of hearing before this Court from the counsel for the petitioners are regarding the delay in reporting the occurrence by defacto complainant P.W.1 and regarding *alibi* etc., even such is the

case, only recall of P.W.1 is enough and there could be nothing to show the recall of other witnesses among PWs. 1 to 3.

4. Having regard to the above, the petition can be allowed in part also for recall of P.W.1 and examination of P.Ws.15 and 16 only after recall examination of P.W.1 to bring on record any omission and contradictions through Investigation Officer also and it is also subject to the petitioners giving in a sealed cover to the court what are the relevant questions further to be put to these witnesses for the court to consider out of those any relevant and to permit only those without reflecting to the otherside the said questions before cross examination, subject to costs of Rs.2000/- to be deposited before the Administrative Officer of the lower court, for the lower court to pay to the witnesses.

4. Accordingly and with the above direction, this Criminal Petition is allowed in part. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence.

DR.B.SIVA SANKARA RAO, J

12.10.2017

*Note: issue C.C. by 13.10.2017.
B/o.SS*