

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.933 of 2017

ORDER :

Aggrieved by the order dated 17.03.2017 in CrI.MP.No.230 of 2017 in C.C.No.153 of 2015 passed by the II Additional Junior Civil Judge-cum-XX Metropolitan Magistrate, Cyberabad at Malkajgiri, dismissing the application of A1 to A4 to dispense with their personal appearance for Section 313 Cr.P.C. examination of them, the revision is filed by them.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor for the State.

3. It is in fact mandatory on the part of the accused to appear personally and answer the questions covering any incriminating material from the prosecution evidence against them. There is no provision to dispense with the personal appearance, in the absence of showing any application under Section 205 Cr.P.C. filed by them to represent through special vakalat holder and permitted if at all including to answer any questions either under Section 251 or 239 or 245 or 313 Cr.P.C., as the case may be. Once such is the case, none of the accused got any right to ask the Court to dispense with their personal appearance to answer the incriminating prosecution evidence against them, but for to attend and answer by giving what are the reasons, if any, they want to give and what is the written statement if any they want to file as part of their defence.

4. Having regard to the above, the impugned order no way requires interference including with reference to the expression of the Apex Court placed reliance that was discussed by the lower Court in Basavaraj R.Patil v. State of Karnataka. Needless to say, the petitioners can file application if at all after their appearance for Section 313 Cr.P.C. examination, from the so called joint pains of any of them if unable to climb the upper floor of the Court premises for not a case of in the ground floor there is another Court to direct the learned Judge on any Saturday to conduct at the ground floor, as the entire ground floor is meant for parking. Thus, it is left open to any of them to appear for said Section 313 Cr.P.C. examination with any other human assistance including by lifting if unable to climb the steps. It need not be said that if at all any application to dispense with personal appearance not of all but for few if permitted by the lower court on the date of pronouncing of judgment it can be subject to at least one of accused shall appear under Section 317 r/ w 353 Cr.P.C.

5. With the above directions and observations, the Criminal Revision Case is disposed of, before admission.

6. Miscellaneous petitions, pending if any, shall stand closed.

Date:04-04-2017
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Dr. B. SIVA SANKARA RAO, J