

HON'BLE DR. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.1664 OF 2017

ORDER:

Impugning the dismissal order dated 03.02.2017 of the section 311 Cr.P.C., application for recall of P.W.1 sought by the revision petitioner/accused, which is more than two years after evidence of the prosecution witnesses, closed on 01.08.2014 and subsequently, even D.Ws.1 and 2 examined, by mentioning that certain material aspects of the case and certain suggestions were not put to P.W.1 which goes to route of the matter, the revision is maintained, contending trial court ought to have allowed.

2. The learned counsel for the petitioner reiterates the same, whereas the learned standing counsel Sri P.Nageswara Rao, ACB (TG), submits that once the order is very clear that too trial court having facts fresh in mind, there is nothing to interfere, by sitting under Section 482 Cr.P.C. inherent powers, against the impugned order, thereby the petition deserves dismissal.

3. Heard and perused the material on record.

4. Section 311 Cr.P.C., runs into two parts. The first part, on application showing cogent reasons and the second part, where the court fee is just and necessary for effective disposal of the lists.

5. Section 311, Part II Cr.P.C. can be exercised even under Section 165 of the Indian Evidence Act, where it is necessary. The impugned order clearly shows there is only to drag on the matter from the respective contentions. In fact, it cannot be ignored that if there is a material suggestion, which ought to have been given by accused, if not given, it may sometimes goes to the route of the matter. There is no evidence placed on record of P.W.1 and there is no clue even indicated as to what are the suggestions to be put. No doubt any suggestion or any question indicated in the affidavit petition, the other side being alerted, however, atleast could have been given in a sealed cover before the court to consider.

6. Having regard to the above, there is nothing to interfere with the impugned order, but for remedy is left open, within one week from today, to file a fresh petition by giving in sealed cover, what are the suggestions to be put to the witness for the court, if at all to consider, to permit recall subject to heavy costs.

7. Accordingly, Criminal Revision case is disposed of with the above directions. Miscellaneous petitions pending, if any, in this case shall stand closed.

DR.B.SIVA SANKARA RAO,J

27.03.2017
SS