

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Criminal Revision Case No.1576 of 2017

ORDER:

This criminal revision case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, ('the Code', for short) is filed by the petitioner-accused having been aggrieved of the order, dated 10.12.2015, of the learned Judicial Magistrate of First Class, Jammalamadugu, passed in CrI.MP.No.2129 of 2015 in C.C.No.353 of 2014.

I have heard the submissions of *Sri Solman Raju Manchala*, learned counsel for the petitioner-accused, at the stage of admission. I have perused the material record.

The facts, which are necessary to be stated as a prelude to this order, in brief, are as follows:

The petitioner-accused, who is facing trial for the offences punishable under Sections 323 & 354 of the Indian Penal Code, 1860, failed to cross-examine PWs1 to 4 and, therefore, filed the afore-said application for recalling them. The trial Court, by order, dated 02.12.2015, allowed the said petition on payment of Rs.500/- as batta to each of the said witnesses on or before 10.12.2015; and, observed that failing which the petition stands dismissed. As the petitioner-accused failed to comply with the said condition, the petition was dismissed, on 10.12.2015. Aggrieved thereof, the petitioner is before this Court.

Learned counsel for the petitioner submits that the petitioner is facing serious charges punishable with punishment both rigorous and simple and that if the witnesses are not permitted to be cross examined by giving one more opportunity he would suffer serious and irreparable loss. He further submits

that the petitioner-accused has got fair chances of success in the Calendar Case.

Having regard to the facts and submissions, this Court is of the considered view that the revision case can be disposed of at the stage of admission with appropriate directions.

Accordingly, the Criminal Revision Case is allowed and the order impugned is set aside subject to the following conditions:

1. The petitioner-accused shall deposit, before the trial Court, within two (02) weeks from today, the process for service of witness summons on PWs1 to 4.
2. On such deposit of the process, the trial Court shall fix a date for the appearance of PWs1 to 4 for the purpose of cross-examination by the petitioner-accused.
3. On the date of appearance of PWs1 to 4, the petitioner-accused shall pay Rs.500/- each to the said witnesses as batta and cross examine them without fail.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

16.06.2017

Note: Issue Cc by 19.06.2017.

(B/o)
Vjl