

THE HON'BLE DR.JUSTICE SHAMEEM AKTHER

CRIMINAL PETITION NO.1615 OF 2018

ORDER:

This petition is filed by the petitioners-accused under Section 482 Cr.P.C. to quash the order, dated 01.05.2017 in CrI.M.P.No.703 of 2017 in C.C.No.145 of 2015 passed by the II Addl. Judl. Magistrate of I Class, Sattenapalli, Guntur District and prayed this Court to allow the petitioners to recall P.Ws. 1 to 3 for the purposed of cross-examination.

2. Heard the learned counsel for the petitioners, learned Assistant Public Prosecutor representing the State and perused the record.

3. The material on record reveals that P.Ws. 1 to 3 were not cross-examined at all. As the brother-in-law of the petitioners' counsel appearing in the lower Court died, he could not cross-examine the witnesses on the dates given. The Court below was pleased to impose costs of Rs.900/- and the same was paid. When an application was filed in the above C.C., the same was dismissed. As seen from the record, P.Ws. 1 to 3 were not cross-examined at all. The reason assigned is that counsel for the petitioners' appearing in the lower Court died. So, he could not do so. It appears that there is no fault on the part of the petitioners for not cross-examining P.Ws. 1 to 3. For to ascertain the truth or otherwise of the allegations, cross-examination of P.Ws.1 to 3 is essential, who are material witnesses in the impugned C.C.No.145 of 2015. Without there being cross-examination of those witnesses, it is difficult for the Court to come to a just conclusion. Certainly, there are laches on the part of the petitioners in not cross-examining P.Ws. 1 to 3 as per the schedule fixed by the Court below. However, in the

interest of justice, an opportunity is required to be given to the petitioners to cross-examine P.Ws. 1 to 3.

4. Under these circumstances, the order, dated 01.05.2017 in CrI.M.P.No.703 of 2017 in C.C.No.145 of 2015 passed by the II Addl. Judl. Magistrate of I Class, Sattenapalli, Guntur District, is set aside and the petitioners-accused are permitted to cross-examine P.Ws. 1 to 3 on the next date of hearing without seeking any further time.

5. With the above direction/permission, the Criminal Petition is allowed. Miscellaneous petitions, if any, pending in this petition shall stand closed.

6. The Registry is directed to communicate a copy of this order to the Court below within four (4) days.

DR.SHAMEEM AKTHER, J

DATED: 14-02-2018.
Hsd

