

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.3289 of 2018

ORDER:

This petition is filed under Section 482 Cr.P.C by the petitioners/A.1 and A.2 challenging the order dated 05.12.2017 in CrI.M.P.No.490 of 2017 in S.C. No.236 of 2015 passed by the learned VI Additional District and Sessions Judge, Prakasam at Markapur, dismissing the petition filed by the petitioners under Section 311 Cr.P.C seeking to recall PWs.1 to 3 for further cross-examination.

2) Heard Sri V.R.Avula, learned counsel for petitioners and learned Addl. Public Prosecutor for the State (Andhra Pradesh).

3) A perusal of the impugned order would show that the petitioners/A.1 and A.2 sought to recall PWs.1 to 3 for further cross-examination on the ground that there were several omissions and contradictions with reference to their 161 Cr.P.C statements and they were not questioned with reference to those omissions and contradictions during the earlier cross-examination and unless those omissions and contradictions are put to PWs.1 to 3, great prejudice will be caused to the defence of the accused and hence petition may be allowed. The Trial Court dismissed the petition on the observation that the recall application cannot be allowed on mere request and the petitioners have to show strong ground for recall and they have not produced any material on the basis of which they are seeking for further cross-examination.

4) The submission of learned counsel for petitioners is that when the evidence of PWs.1 to 3 is compared with their earlier 161 Cr.P.C statements, one can find some omissions made in their evidence and therefore, such omissions have to be brought to the notice of the PWs.1 to 3 and unless such omissions are put to them, it will cause prejudice to their defence and therefore, permission may be accorded.

5) Learned Addl. Public Prosecutor would submit that if permission is granted only to the extent of putting questions relating to the so-called omissions made by PWs.1 to 3 in their 161 Cr.P.C statements, he may have no objection.

6) In that view of the matter, this Criminal Petition is allowed by setting aside the impugned order and the Trial Court is directed to recall PWs.1 to 3 and the petitioners/A.1 and A.2 shall be allowed to further cross-examine PWs.1 to 3 only to the extent of putting questions relating to any omissions made by them in their earlier 161 Cr.P.C statements when compared to their depositions. Except that, the petitioners shall not be allowed to put any other questions. The Trial Court shall fix a date for further cross-examination and it should be completed in one single day.

As a sequel, miscellaneous applications pending if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 03.04.2018

Note: Issue C.C by tomorrow.

(b/o)

scs