

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.16507 of 2014

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C, by the petitioner herein/respondent No.1 aggrieved by the order dated 12.12.2014 in CrI.R.P.No.113 of 2014 on the file of IV Additional District Judge, Ranga Reddy District at L.B.Nagar, whereby and whereunder the learned Judge allowed the CrI.R.P filed by the respondents 2 to 7 herein, permitting them to further cross-examine the petitioner (PW.1) on payment of costs of Rs.2,000/-.

2) Heard arguments of petitioner/party-in-person and Sri M.V. Praveen Kumar, learned counsel for respondents 4 to 7.

3) Vehemently fulminating the order passed by the learned IV Additional District Judge, Ranga Reddy District, at L.B.Nagar, the petitioner, who appeared party-in-person, would submit that the lower Court allowed the said petition on premise that the respondents did not cross-examine the petitioner (PW.1) on the aspects touching Exs.P.16 to P.24 but however in recall petition, it is not specifically mentioned that cross-examination was essential in connection with Exs.P.16 to P.24. On the other hand, it is only stated that on 03.05.2014, their counsel hurriedly cross-examined PW.1 in confusion and the said cross-examination could not be completed and therefore, an opportunity may be accorded to them to further cross-examine PW.1. She argued that if

they failed to cross-examine PW.1 on the aspects touching Exs.P.16 to P.24, that was not the fault of PW.1 and the deposition of PW.1 would show that entire cross-examination was completed and posted for re-examination, which would indicate that nothing more was left over to further cross-examine PW.1. Therefore, under the guise of further cross-examination, it is not apt to harass PW.1 by inviting her to the Court again and again. The petitioner thus prayed to dismiss the petition.

4) Per contra, opposing the petition learned counsel for respondents would submit that as per the observation of the learned IV Additional District Judge, the chief-examination of PW.1 commenced on 23.11.2012 by filing her affidavit and it continued upto 19.04.2014 as she produced documents in different spells. Thereafter, the matter was posted for cross-examination to 03.05.2014, on which date, learned counsel for respondents could cross-examine PW.1 only on the aspects touching Exs.P.1 to P.15 but as the counsel could not prepare for cross-examination on the aspects touching Exs.P.16 to P.24, he did not comply the same. However, the Trial Court took the cross-examination as completed and posted the matter for further evidence. Learned counsel would submit that since further cross-examination of PW.1 on Exs.P.16 to P.24 was very much essential, CrI.M.P.No.2405/2014 was filed for recall of PW.1 though it was not specifically mentioned that recall was required on the aspects touching Exs.P.16 to P.24, still in CrI.M.P.No.168/2014 in CrI.R.P.No.113/2014 it was clearly mentioned that the counsel who cross-examined PW.1 could not complete the cross-examination and he was in a hurried manner and in confusion. Though

the Trial Court dismissed the petition, considering the truth in their submission learned IV Additional District Judge, allowed the Revision Petition and permitted further cross-examination and the said order since suffered no illegality, this Criminal Petition may be dismissed.

5) The point for determination is:

“Whether there are merits in the Criminal Petition to allow?”

6) **POINT**: A perusal of the impugned order would show that the learned IV Additional District Judge, Ranga Reddy District, allowed the petition on the finding that PW.1 was cross-examined touching upto Ex.P15 only and the witness was to be cross-examined on remaining Exs.P.16 to P.24. In this context a perusal of the deposition of PW.1 would show that as rightly observed by the learned Judge, cross-examination was conducted touching upto Ex.P.15 only and there was no cross-examination regarding other exhibits. Therefore, *prima facie* there is reasonability in the request of respondents seeking for recall of PW.1. It is true, in CrI.M.P.No.2405/2014 there was no specific mentioning to the effect that recall of PW.1 was essential for her cross-examination on the aspects touching Exs.P.16 to P.24. However, there was an averment to the effect that cross-examination was done in a hurried manner and in confusion and it could not be completed. The deposition of PW.1 vouchsafes this fact. Further, the learned IV Additional District Judge, Ranga Reddy District, allowed the petition on imposing suitable costs and thereby safeguarded the interest of PW.1. Hence, I find no reason to interfere with the order impugned.

7) In the result, this Criminal Petition is dismissed with a direction that on payment of costs of Rs.2,000/- to PW.1 (petitioner) by respondents 2 to 7 herein, the Trial Court shall fix a suitable day for further cross-examination of PW.1 which should be completed in a single day and the further cross-examination of PW.1 shall be conducted by the respondents in respect of Exs.P.16 to P.24 alone.

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

Date: 23.04.2018
scs

U. DURGA PRASAD RAO, J

