

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NO.1770 OF 2018

ORDER:

Heard the learned counsel for the petitioner as well as the learned Public Prosecutor appearing for the respondent State.

The present Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.18 of 2018 in SC/ST S.C.No.29 of 2015 dated 2.4.2018 on the file of the Court of the Special Sessions Judge for trial of cases under SCs & STs(PoA) Act-cum-VII Additional District and Sessions Judge, Ranga Reddy district, L.B.Nagar in dismissing the petition filed under Section 311 Cr.P.C. to recall PWs 1 to 4 for cross-examination.

Brief facts of the case are that the petitioner herein has been charged for the offence punishable under Sections 506 and Sec.3(1) (ix) of SC/ST (PoA) Act, 1989. During the course of the trial, when the matter was coming up for cross-examination of PWs 1 to 4, learned counsel for the petitioner was absent. In spite of repeated opportunities given, they were not cross-examined. Therefore, the cross-examination was treated "nil" and the matter was adjourned. However, the petitioner filed CrI.M.P.No.372 of 2017 to recall PWs 1 to 4 before the Court below. After hearing, the said petition was allowed on payment of Rs.250/- to each witness and PWs 1 and 2 were present on 20.12.2017 and PWs 3 and 4 were present on 12.1.2018 for cross-examination. Even on those two days also, learned counsel for the petitioner did not attend the Court and once

again the cross-examination of PWs 1 to 4 was treated as “nil”. After the said orders, the petitioner filed another petition in CrI.M.P.No.18 of 2018 for recalling of PWs 1 to 4 for cross-examination, stating that the matter was posted on 12.1.2018 and it being the last working day before Pongal vacations, learned counsel for the petitioner was held up in another Courts and, therefore, he could not attend the Court and cross-examine the witnesses. The said act of not cross-examining the witnesses is not intentional but only due to the reasons stated supra. However, the Court below, after appreciation of facts, particularly, the conduct of the learned counsel for the petitioner in not cross-examining PWs 1 to 4 on two different days, was pleased to dismiss the petition on 2.4.2018. Aggrieved by the same, the present Criminal Revision Case is filed.

Learned counsel for the petitioner contended that the reason for not cross-examining PWs 1 to 4 by the learned counsel for the petitioner was that he was attending the other Courts, since 12.1.2018 was the last working day before Pongal vacations. The said act of not cross-examining is not intentional and he requested this Court to fix a date for cross-examination of all the witnesses after recall.

Per contra, learned Public Prosecutor appearing for the respondent State, though, opposed the petition, fairly conceded before this Court that one more opportunity can be given subject to payment of heavy costs.

Having heard both the counsel and on perusal of the material on record, it is revealed that the petitioner herein has been charged for the offence under Section 506 and Sec.3(1)(ix) of SC/ST (PoA) Act, 1989. If the petitioner is not given an opportunity to cross-examine PWs 1 to 4, his rights will be seriously prejudiced leading to conviction. Therefore, this Court deems it appropriate to give one more opportunity to the petitioner to cross-examine PWs 1 to 4.

Accordingly, Criminal Revision Case is allowed by setting aside the orders passed in CrI.M.P.No.18 of 2018 in SC/ST S.C.No.29 of 2015 dated 2.4.2018, subject to payment of Rs.1,250/- each, directly to PWs 1 to 4. It is needless to observe that the learned Special Sessions Judge for trial of cases under SCs & STs(PoA) Act-cum-VII Additional District and Sessions Judge, Ranga Reddy district, L.B.Nagar, shall fix a date for cross-examination of PWs 1 to 4 and on that day no adjournment shall be given.

Pending miscellaneous petitions, if any, shall stand closed.
No order as to costs.

P. KESHA VA RAO,J

Date: 11.7.2018

KPM